

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

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PATRICK SAGET,	) Case No.
et al.,	) 18-cv-01599-WFK-ST
Plaintiffs	)
vs.	)
DONALD TRUMP, President	)
of the United States	)
et al.,	)
Defendants	)

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Videotaped Deposition of Kathryn Anderson  
Washington, D.C.  
December 13, 2018  
10:11 a.m.

Reported by: Bonnie L. Russo  
Job No. 448917

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1 Videotaped Deposition of Kathryn Anderson held  
2 at:

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Mayer Brown, LLP

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1999 K Street, N.W.

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Washington, D.C.

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19 Pursuant to Notice, when were present on behalf  
20 of the respective parties:

21

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19 Glen Fortner, Videographer

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15 (Exhibits included with transcript.)

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1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: We are now on the  
4 record.

5 This begins Videotape 1 in the  
6 deposition of Kathryn Anderson in the matter of  
7 Patrick Saget, et al., v. Donald Trump, U.S.  
8 Department of Homeland Security, et al., in the  
9 United States District Court for the Eastern  
10 District of New York.

11 Today's date is December 13th, 2018.  
12 And the time is 10:11.

13 This deposition is being taken at  
14 Mayer Brown, LLP, at the request of Mayer  
15 Brown.

16 The videographer is Glen Fortner of  
17 Magna Legal Services.

18 And the court reporter is Bonnie  
19 Russo of Magna Legal Services.

20 Will counsel and all parties present  
21 state their appearance and who they represent.

22 MR. CONNELLY: Vincent Connelly of

1 the law firm Mayer Brown representing the  
2 plaintiffs.

3 MS. FORTNEY: This is Jill Fortney  
4 of the law firm Mayer Brown representing the  
5 plaintiffs.

6 MR. CHRISTIAN: Marcus Christian of  
7 the law firm Mayer Brown representing the  
8 plaintiffs.

9 MS. WEBB: Brantley Webb, Mayer  
10 Brown, on behalf of the plaintiffs.

11 MR. MARUTOLLO: Joseph Marutollo  
12 from the U.S. Attorneys Office on behalf -- on  
13 behalf of the government.

14 MR. CHO: James Cho, also with the  
15 U.S. Attorney's Office, on behalf of the  
16 government.

17 MS. AFANEH: Tahani Afaneh, with the  
18 Department of Homeland Security on behalf of  
19 the government.

20 MS. SHAH: Liza Shah with the United  
21 States Citizenship and Immigration Services for  
22 the government.

1 THE VIDEOGRAPHER: The court  
2 reporter will please swear in the witness.

3  
4 KATHRYN ANDERSON,  
5 being first duly sworn, to tell the  
6 truth, the whole truth and nothing but the  
7 truth, testified as follows:

8  
9 EXAMINATION BY COUNSEL FOR PLAINTIFF

10 BY MR. CONNELLY:

11 Q. Good morning.

12 A. Good morning.

13 Q. Would you please tell us your name.

14 A. Kathryn Anderson.

15 Q. And, Kathryn, where -- with -- for  
16 whom do you work?

17 A. At the Department of Homeland  
18 Security, U.S. Citizenship and Immigration  
19 Services.

20 Q. How long have you worked with that  
21 agency?

22 A. I started with -- I'll call it

1 USCIS -- in 2011.

2 Q. Okay. And I don't want a home -- I  
3 don't want a home address, but would you tell  
4 me where your residence is?

5 A. In Washington, D.C.

6 Q. Okay. You have -- you're a lawyer;  
7 is that correct?

8 A. Correct.

9 Q. All right. Have you ever  
10 participated in depositions before, either, you  
11 know, in taking, defending or serving as a  
12 witness?

13 A. I've participated in taking and  
14 defending but never served as a witness.

15 Q. Okay. Well, I won't spend too much  
16 time on the preliminaries. But if -- you know,  
17 particularly if there's something I ask you  
18 that's confusing, tell me.

19 A. Okay.

20 Q. Because otherwise the record will  
21 obviously -- your answer will reflect, you  
22 know, the presumption that you understand the

1 question.

2 Any time you want to take a break,  
3 feel free to do so.

4 I think that's all I need to tell  
5 someone who's -- who's been through the process  
6 before.

7 Why don't you give me -- let's --  
8 let's just go back to college.

9 Where did you go to college?

10 A. The University of Notre Dame.

11 Q. Oh. And what -- what -- what year  
12 did you graduate?

13 A. 2003 for undergrad.

14 Q. Okay. And from there what did you  
15 do before -- or maybe went -- you went directly  
16 to law school?

17 A. I went straight to law school, also  
18 at the University of Notre Dame.

19 Q. And graduated when, '06?

20 A. Correct.

21 Q. From there what did you do before  
22 joining your present position?

1           A.     I worked for a law firm that at that  
2     time was called Baker & Daniels in South Bend,  
3     Indiana.

4           Q.     All right. For how long a period of  
5     time?

6           A.     I was there until 2010.

7           Q.     What -- what was your practice area?

8           A.     Business litigation, a little bit of  
9     white collar crime defense.

10          Q.     Any immigration or anything that,  
11     you know, was related to your -- I mean similar  
12     to what you're currently doing with the  
13     government?

14          A.     Sure. I had a couple of pro bono  
15     asylum cases.

16          Q.     From -- do you happen to recall  
17     where -- where were those people from?

18                   MR. MARUTOLLO: Objection.

19                   You can answer.

20                   THE WITNESS: Africa and Central  
21     America.

22                   BY MR. CONNELLY:

1 Q. And after your stint -- well, why  
2 don't you just walk me through.

3 When you -- when you left the South  
4 Bend firm, where did you do?

5 A. Sure. I took on a volunteer  
6 position with the Mennonite Voluntary Service.  
7 I moved to New York City for that. And my  
8 placement for the Mennonite Voluntary Service  
9 was with World Vision International, their  
10 United Nations office.

11 Q. You were acting in a legal capacity  
12 for them?

13 A. No.

14 Q. How long did you stay with that  
15 organization?

16 A. The volunteer stint was one year.

17 Q. And just, in ten words or less, what  
18 -- what -- what did you do during that time?

19 A. Sure. I did policy and advocacy  
20 work to the United Nations on behalf of World  
21 Vision.

22 Q. And what -- what is -- what is

1 the -- kind of the purpose of World Vision?

2 A. Sure. They focus on humanitarian  
3 aid and development work around the world with  
4 a particular focus on children.

5 Q. After that one-year voluntary work,  
6 what did you do?

7 A. That's when I got the position with  
8 USCIS.

9 Q. In -- here in Washington?

10 A. No. That was in New York.

11 Q. And so we have a kind of cleaner  
12 record, so what -- what year now are we talking  
13 about when you joined USCIS?

14 A. We're in 2011.

15 Q. Okay. Why don't you brief -- very  
16 briefly kind of walk me through. Because  
17 obviously you're going to have a geographic  
18 change. I don't know whether you'll have a  
19 title change.

20 Tell me, you know, what you -- what  
21 the -- your progress is within the  
22 organization.



1           A.       Sure. So I started in the New York  
2    asylum office -- this was in 2011 -- as an  
3    asylum officer. I was there for about a year  
4    and a half before I transferred to the Newark  
5    asylum office, also still as an asylum officer.  
6    So I was there for about another year and a  
7    half.

8                   And that's when I moved to D.C. and  
9    got a position at USCIS headquarters in the  
10   office of policy and strategy.

11          Q.       And was the move to D.C. -- I'm  
12   adding up your -- your one and a half years  
13   plus one and a half years -- that's 2014?

14          A.       It was early 2014.

15          Q.       Okay. Going back just for a moment.  
16                   What -- what are the -- what were  
17   your responsibilities and duties as an asylum  
18   officer, rather, in New -- in New York or in  
19   Newark?

20          A.       Sure. In both offices I interviewed  
21   applicants for asylum and adjudicated their  
22   cases. Also in the New York office I

1 interviewed credible fear cases as well.

2 Q. I'm sorry. I missed it.

3 Credible?

4 A. Credible fear.

5 Q. Explain that for me.

6 A. Sure. The process for people who  
7 are in the expedited removal process. So maybe  
8 somebody who comes in through the southern  
9 border, doesn't have documents to enter, and is  
10 placed in a expedited removal process. If they  
11 claim a fear of return to their country of  
12 nationality, our laws prescribe that the asylum  
13 division screens them to see if they have a  
14 credible fear of persecution.

15 Q. Okay. And I -- I'm sorry. If you  
16 gave me your title, I missed it.

17 When you moved to Washington, what  
18 was your position?

19 A. So my initial position was policy  
20 analyst.

21 Q. What did you do in that capacity?

22 A. So I was a policy analyst in the

1 international and humanitarian affairs division  
2 of the USCIS office of policy and strategy.  
3 And in that role, I worked on policy issues  
4 related to humanitarian immigration benefits  
5 for USCIS.

6 Q. How long did you remain a policy  
7 analyst?

8 A. I was in the policy analyst role  
9 until I think about the fall of 2015 when I  
10 became acting chief of that same division.

11 Q. Let me momentarily retreat, although  
12 I will try to stay on --

13 A. Sure.

14 Q. -- sequential, chronological,  
15 unilateral questions.

16 What prompted your decision to move  
17 from Newark, where you were an asylum officer,  
18 down to Washington, where you became a policy  
19 analyst?

20 A. Sure. I've always been interested  
21 both in individual casework and working with  
22 individuals and at the same time doing broader

1 policy work.

2 So in the asylum officer context, I  
3 was interviewing people day after day. And I  
4 -- I loved that. I loved meeting people and  
5 making decision on their cases.

6 But I was also interested in -- in  
7 getting a -- a higher-level policy perspective  
8 as well. So it was just -- I felt as though it  
9 was the right time to -- to make that move.

10 Q. Would -- would this -- would --  
11 would the change to become a policy analyst be  
12 perceived within the organization as a  
13 promotion?

14 A. Yes.

15 MR. MARUTOLLO: Objection.

16 You can answer.

17 THE WITNESS: Sorry.

18 BY MR. CONNELLY:

19 Q. And now we're -- you've brought us  
20 to the fall of 2015 when you're the acting  
21 chief of that division.

22 How -- I assume that that expanded

1 your responsibilities in some fashion?

2 A. It did. I took on a supervisory  
3 capacity and also took on responsibility for  
4 overseeing all of the work of the division as  
5 opposed to just my particular areas.

6 Q. How many people did you supervise?

7 A. It varied over the time that I was  
8 in that role. I think anywhere from two to  
9 four or five.

10 Q. Were the people that you supervised,  
11 were they also lawyers?

12 A. Some, but not all. It's not a  
13 requirement for that position.

14 Q. And let's finish off.

15 Further titles and position since  
16 the fall of 2015?

17 A. Sure. So I was acting as the chief  
18 of the division from fall of 2015 until the day  
19 that the administration changed. So what was  
20 that, January 2017, when the -- excuse me --  
21 when the permanent chief of the division  
22 returned from a detail that he had been on. So

1 at that point I became the deputy chief of the  
2 division.

3 Q. And who was the permanent chief who  
4 returned?

5 A. Brandon Prelogar.

6 Q. And have you -- have you continued  
7 to serve as deputy chief through today?

8 A. No. I --

9 Q. Okay.

10 A. -- took on a new position just over  
11 two weeks ago.

12 Q. Okay. What's that?

13 A. It's a senior advisor for the USCIS  
14 refugee asylum and international operations  
15 directorate.

16 Q. I think that organization is one of  
17 the acronyms that I'm going to ask you about  
18 because --

19 A. RAIO.

20 Q. RAIO?

21 A. Yes.

22 Q. Yeah.

1 R-A-I-O?

2 A. Yes. Correct.

3 Q. Okay. Would you describe that as  
4 a -- a promotion? a lateral move?

5 Or describe --

6 A. I saw it as --

7 Q. -- it any way you like.

8 A. Sure. I saw it as a promotion, yes.

9 Q. Do you still remain in the same  
10 physical location as you had been as a deputy  
11 chief and acting chief?

12 A. What do you mean "physical  
13 location"?

14 Q. I mean I just don't -- is your -- is  
15 your -- are you new responsibilities now as  
16 senior adviser -- do -- do you -- are you still  
17 basically in the same building that you were in  
18 previously?

19 A. Oh, it's the same building, a  
20 different floor.

21 MR. CONNELLY: Okay. I'm going to  
22 start showing you some documents. And I think

1     what we'll do is we'll just number them  
2     numerically, and we'll put your initials in  
3     front of them so that, as other deposition  
4     documents load up this case, it'll be a little  
5     bit easier to remember which ones we showed to  
6     you.

7                   MR. MARUTOLLO:   Excuse me for a  
8     moment.

9                   MR. CONNELLY:    Sure.

10                  MR. MARUTOLLO:   For the sake of  
11     clarity, can we also has attach them to the  
12     transcript --

13                  MR. CONNELLY:    Sure.

14                  MR. MARUTOLLO:   -- when this is all  
15     completed, just so we'll have it all in one  
16     place?

17                  MR. CONNELLY:    Sure.    Sure.  
18     Absolutely.

19                  So I'm going to -- I'm going to show  
20     you what I believe to be a copy of the TPS  
21     statute.

22                  We'll make that KA-1.



1                   Let's go off the record for a  
2   second.

3                   THE VIDEOGRAPHER: Off the record.

4                   The time is 10:22.

5                   (A short recess was taken.)

6                   (Deposition Exhibit KA-1 was marked  
7   for identification.)

8                   THE VIDEOGRAPHER: We're going back  
9   on record.

10                  The time is 10:24.

11                  BY MR. CONNELLY:

12                 Q.    Have you had a chance to look at  
13   KA-1, which I'll suggest is a -- a copy of the  
14   TPS statute?

15                 A.    I have it in front of me. I have  
16   not reread the entire thing, but --

17                 Q.    Okay.

18                 A.    -- I see it.

19                 Q.    Okay. Do you have -- I mean is this  
20   statute something that you are familiar with --

21                 A.    Yes.

22                 Q.    -- from your duties at CIS?

1 A. Yes.

2 Q. Okay. If you could go to the second  
3 page, which is numbered on the bottom as Page 2  
4 of the statute. And -- and in the lower part  
5 of this page -- of the page you'll see in bold  
6 there is designations. And then under  
7 "Designations" it begins "(1) In General."

8 Are -- are you there with me on  
9 that?

10 A. I see it, yes.

11 Q. Okay. My first question is this  
12 statute references the attorney general  
13 throughout the statute.

14 A. Correct.

15 Q. Okay?

16 From my current understanding -- but  
17 I'm looking to you to be educated -- my sense  
18 is that a lot of the decisions, you know, in  
19 terms of both the termination and extensions of  
20 TPS status, are made by the Department of  
21 Homeland Security; is that correct?

22 MR. MARUTOLLO: Objection.

1           You know, I -- the witness is  
2   testifying as a fact witness. I object to the  
3   extent this is calling for some kind of legal  
4   conclusion.

5           But you can answer the question.

6           THE WITNESS: Correct. The  
7   decisions about TPS designations are made by  
8   the secretary of Homeland Security.

9           BY MR. CONNELLY:

10          Q.    Okay. And -- and if you know -- I  
11   mean I -- I'm not -- I'm not, frankly, very  
12   concerned about this -- you know, this --  
13   the -- the titles.

14                But I'm curious is -- do you -- do  
15   you know whether there -- there are other  
16   statutes, or is there -- is there something  
17   that the attorney general at some point  
18   designated to the head of the Department of  
19   Homeland Security making these decisions?

20                MR. MARUTOLLO: Objection.

21                You can answer.

22                THE WITNESS: I believe part of the

1     Homeland Security Act of 2001 changed the  
2     references in this statute to refer to the  
3     secretary of Homeland Security instead of the  
4     attorney general.

5             MR. CONNELLY:   Okay.

6             THE WITNESS:   I think that citation  
7     is in the Federal Register notices, if you need  
8     it.   I don't know it.

9             BY MR. CONNELLY:

10            Q.     All right.   Okay.   Fine.

11            Also, because it's going to be --  
12     inform, you know, some greater part of my  
13     questions during the course of the day, if you  
14     would just follow along with me, where we're  
15     at, there are not -- there are three  
16     subsections, (A) then (B) and then (C), which  
17     spills over to Page 3.

18            Do you see those?

19            A.     I see.

20            Q.     Yeah.   And again, I'm not -- I'm  
21     going to try to move things along.   But I don't  
22     want to put any words your mouth.   So if what

1 I -- what I suggest to you doesn't seem right,  
2 just correct me.

3 It appears that those are the three  
4 sections that indicate the kinds of things that  
5 would occur in a country that might -- might  
6 bring about the country, you know, having a TPS  
7 designation; is that correct?

8 MR. MARUTOLLO: Objection. Again,  
9 that calls for legal conclusion. The law  
10 speaks for itself.

11 But you can certainly answer the  
12 question.

13 THE WITNESS: I understand A, B and  
14 C to be the three potential bases -- legal  
15 bases for -- upon which a TPS designation could  
16 be made.

17 BY MR. CONNELLY:

18 Q. Okay. And let -- let me just  
19 broadly -- and I'll re-ask.

20 In the course of your duties at CIS,  
21 have you become familiar with the concepts of  
22 ongoing armed conflict; the concepts of

1 earthquake, flood, drought, epidemic or other  
2 environmental disaster; and the concepts of  
3 extraordinary and temporary conditions?

4 A. I'm very familiar in my work with  
5 these three sections, yes.

6 Q. Okay. If we could just move down  
7 Page 3 just a little bit to near the bottom  
8 where, under (3), "Periodic review,  
9 terminations and extensions of designations."

10 Do you see that?

11 A. I do.

12 Q. And in the immediate large paragraph  
13 under it, which begins by talking about at  
14 least 60 days before the end of the initial  
15 period of designation, the -- there will be a  
16 determination about whether or not to extend.  
17 I -- that -- that's paraphrasing.

18 But do you see where I'm at?

19 A. I see where you're talking.

20 Q. Okay.

21 A. Yes.

22 Q. Are you also familiar with the --

1 the concepts and the -- the review process or  
2 the -- or the extension of a designation?

3 Has that -- has that been a part of  
4 your duties?

5 MR. MARUTOLLO: Objection.

6 You can answer.

7 THE WITNESS: Yes. I'm very  
8 familiar with this section as well.

9 BY MR. CONNELLY:

10 Q. Okay. Let me ask, in this section,  
11 parenthetically after the reference to the  
12 attorney general, it states: "After  
13 consultation with appropriate agencies of the  
14 government."

15 Do you see that?

16 A. I do.

17 Q. And if you go back just to the  
18 previous page, under the Designation section  
19 that we just briefly went through, that -- that  
20 qualifier is also mentioned, exactly the same  
21 phrasing: "After consultation with appropriate  
22 agencies of the government."

1 See that?

2 A. I see, yes.

3 Q. Okay. Would you tell me, from your  
4 practical perspective, who does the head of the  
5 Department of Homeland Security -- what  
6 agencies does he or she consult with when  
7 making the decisions either about designations  
8 or extensions?

9 MR. MARUTOLLO: Objection. First,  
10 it calls for speculation. And it also calls  
11 for legal conclusion.

12 But you can answer to the extent you  
13 have knowledge of this as a fact witness.

14 THE WITNESS: In my personal  
15 experience and the work that I've done in the  
16 office of policy and strategy, it's routine for  
17 our office, the office of policy and strategy,  
18 to begin consultations and have some level of  
19 consultations with the Department of State  
20 routinely on both initial designations for TPS  
21 as well as extensions.

22 Beyond the Department of State, we



1 would reach out and consult with other agencies  
2 as it may be relevant to a particular country  
3 or the situation in that particular country.

4 For example, when the West Africa  
5 countries were designated on the basis of  
6 Ebola, we contacted and had discussions with  
7 the CDC regarding their view of the safety for  
8 nationals of those countries.

9 That's at my level and my  
10 experience. I don't know who the secretary  
11 always reaches out to at the secretary's level.

12 BY MR. CONNELLY:

13 Q. But you mentioned reaching out to  
14 the State Department, correct?

15 A. Correct.

16 Q. Could you again, on a factual level,  
17 on your personal knowledge level, illustrate  
18 that for me or explain how there's an  
19 interaction on occasion for either designation  
20 or extensions between Department of Homeland  
21 Security and Department of State.

22 MR. MARUTOLLO: Objection.

1                   You can answer.

2                   THE WITNESS: The division that I  
3    was in within the office of policy and strategy  
4    kind of runs and coordinates TPS policy making  
5    for USCIS. And so it's the responsibility of  
6    the -- I'll -- I'll call it IHAD, the  
7    International and Humanitarian Affairs  
8    Division. It's the responsibility of IHAD to  
9    start the review process, to kind of kick off,  
10   I would say, the review process for any country  
11   that's already designated when that time frame  
12   comes up.

13                  Similarly, if there's discussion of  
14   a new initial designation, IHAD also kicks off  
15   that process.

16                  So as part of kicking off that  
17   process, IHAD reaches out to PRM.

18                  BY MR. CONNELLY:

19           Q.     Hang on for a second, again, to both  
20   education me and to keep our record clean.

21                  First, I-H-A-D, I-H-A-D, is -- that  
22   is a -- that is a part of Department of

1 Homeland Security, correct?

2 A. Correct. That's --

3 Q. Okay. That's right.

4 And now who is -- who do they reach  
5 out to?

6 You just -- you just mentioned an  
7 acronym.

8 A. Sure. At the Department of State,  
9 the bureau is PRM. I think that's Population,  
10 Refugees and Migration.

11 Q. Okay. And what is the purpose of  
12 reaching out to -- going outside of Department  
13 of Homeland Security to PRM, which is a part of  
14 the Department of State?

15 A. Historically PRM has coordinated the  
16 TPS input and development of the State  
17 Department's position on TPS designations. So  
18 they are the point of contact for the  
19 Department of State for TPS.

20 Q. And -- and -- and to what purpose is  
21 there this outreach?

22 What is -- what is the information

1 flow or what's the decision making process  
2 between the agencies?

3 A. Sure.

4 MR. MARUTOLLO: Objection. Vague.  
5 Also, again, calls for legal conclusion.  
6 Again, this is a fact witness.

7 So you can answer to the extent you  
8 know. But I instruct you to answer only to the  
9 extent that you have personal knowledge of this  
10 information.

11 THE WITNESS: We reach out to the  
12 Department of State to ask them if they have  
13 any position on TPS designations. But the  
14 primary purpose is to get their input on  
15 conditions in the country. Because looking at  
16 conditions in the country is a very important  
17 part of both the TPS review process and initial  
18 designations.

19 So they have inmate knowledge of  
20 various countries around the world. And so we  
21 ask them for their input on reviewing country  
22 conditions.

1 BY MR. CONNELLY:

2 Q. Who makes the final decision on  
3 whether a country -- a country will be  
4 designated or the TPS status?

5 A. The secretary --

6 MR. MARUTOLLO: Objection.

7 THE WITNESS: Sorry.

8 MR. MARUTOLLO: But you can answer.

9 THE WITNESS: The secretary of  
10 Homeland Security.

11 BY MR. CONNELLY:

12 Q. So is that also true for the final  
13 decision on an extension of the designation?

14 A. Yes.

15 Q. In the course of your duties at CI  
16 -- oh, let -- here. Let -- let's -- let's  
17 frame this a little bit better.

18 As of two weeks ago, in your new  
19 job, do you remain involved in designations or  
20 extension -- extensions of designations for  
21 TPS?

22 A. I don't believe that TPS policy

1 making will be a part of my portfolio in my new  
2 position.

3 Q. Okay. Prior to that time though,  
4 during your -- your when you were with CIS in  
5 Washington as of 2014, were you involved in  
6 making decisions regarding either a designation  
7 of a country or the extension of that  
8 designation?

9 MR. MARUTOLLO: Objection. Vague.  
10 You can answer.

11 THE WITNESS: TPS policy making was  
12 part of my portfolio during almost all of the  
13 time that I worked in the office of policy and  
14 strategy.

15 BY MR. CONNELLY:

16 Q. All right. And were there specific  
17 occasions when you were a part of the process  
18 trying to determine whether a country should be  
19 designated for TPS status?

20 A. Yes.

21 Q. What -- and what exactly was your  
22 role?

1                   What -- what -- what information did  
2   you look at? What information did you convey?

3                   MR. MARUTOLLO: Objection. Compound  
4   and -- and vague.

5                   But You can answer.

6                   THE WITNESS: Okay. Generally my  
7   role typically was to kick off that process for  
8   USCIS.

9                   Let me take a step back.

10                  MR. CONNELLY: Sure.

11                  THE WITNESS: The way that the DHS  
12   department kind of policy making works for TPS  
13   is that USCIS is responsible for the  
14   adjudication of TPS applications and therefore  
15   is the primary agency that has equities in a  
16   TPS designation.

17                  So traditionally the director of  
18   USCIS makes a recommendation to the secretary  
19   of the Department of Homeland Security. And  
20   the initial package that goes to the secretary  
21   is prepared by USCIS.

22                  So my role for the office of policy

1 and strategy was to pull that package together.  
2 And so the initial steps would be to, as I  
3 mentioned, reach out to the Department of State  
4 to request country conditions; also to reach  
5 out to the research unit within USCIS that also  
6 prepared a country conditions report.

7 And then, once we received those  
8 reports, review them, compile the information,  
9 and draft the initial draft of the  
10 recommendation memo that would go from the  
11 director of USCIS to the secretary of Homeland  
12 Security.

13 Q. And was there a similar process  
14 regarding extensions as opposed to the initial  
15 designation?

16 A. There's a similar process, yes, both  
17 for initials and the review of currently  
18 designated countries.

19 Q. And again, you mentioned that there  
20 was a package, as you've describe, for the  
21 initial process.

22 Was there some kind -- kind of --



1 similar package of information pulled together  
2 for extensions?

3 MR. MARUTOLLO: Objection.

4 Again, you can answer to the extent  
5 as -- as your knowledge as a fact -- fact  
6 witness. You're not a 30(b)(6) witness.

7 MR. CONNELLY: Yeah.

8 MR. MARUTOLLO: But you can answer  
9 to the extent, in your personal knowledge, you  
10 know.

11 THE WITNESS: There was typically a  
12 similar package for both.

13 BY MR. CONNELLY:

14 Q. Did you ever do what I'll call  
15 primary research from -- from -- in your  
16 position?

17 You mention the package of  
18 information that came to your attention, and  
19 then it ultimately moved up to the head of the  
20 department.

21 Did -- did -- did you have a -- did  
22 you have a role where you -- you brought in

1 factual information beyond what was provided to  
2 you in the package?

3 MR. MARUTOLLO: Objection. Vague.

4 You can answer.

5 THE WITNESS: Not typically.

6 BY MR. CONNELLY:

7 Q. Do you have any recollection of ever  
8 doing so?

9 A. There were certain occasions, yes.

10 Q. Focusing on Haiti, do you have a  
11 recollection of ever doing it, you know, on  
12 either the Haiti designation or the Haiti  
13 extensions?

14 MR. MARUTOLLO: Objection.

15 You can answer.

16 THE WITNESS: I think that with  
17 Haiti there were some specific instances where  
18 I looked into country conditions on my own.

19 BY MR. CONNELLY:

20 Q. And again, we'll try to stay  
21 chronological, but just so I have a -- kind of  
22 a place maker, tell me, you know, to your best

1 recollection when that occurred.

2 A. I would say that that was probably  
3 in the spring of 2017, for the most part.

4 Q. All right. Can you recall any other  
5 instances in which you, you know, took, as you  
6 described it, a look on, you know, your own for  
7 any determinations or extensions beyond Haiti  
8 in the spring of 2017?

9 A. I mean let me say generally I viewed  
10 part of my role as being aware of what was  
11 going on in various countries around the world  
12 to determine if we should even be looking at  
13 certain countries for new TPS designations, et  
14 cetera.

15 So actually, stepping back on Haiti,  
16 I mean throughout the time that I was working  
17 only the TPS portfolio, I would keep an eye on  
18 what was going on in Haiti.

19 So actually, for example, in -- I  
20 guess it would have been late 2016, Hurricane  
21 Matthew hit Haiti. And so I was watching that  
22 personally, looking at the country conditions

1 to think about how that might impact TPS  
2 designations.

3 And so especially any time that any  
4 country was coming up for review, I would be  
5 looking into country conditions.

6 Q. The initial designation for Haiti  
7 was based upon the 2010 earthquake; is that  
8 correct?

9 A. That's correct.

10 MR. MARUTOLLO: Objection.

11 But you can answer.

12 THE WITNESS: That's correct.

13 BY MR. CONNELLY:

14 Q. Okay. And then there were -- there  
15 were a series -- and I'll -- I'll -- I'll show  
16 them to you in a minute, but there were a  
17 series then of extensions of that initial  
18 determination; is that correct?

19 A. Actually, the next decision that was  
20 made was in 2011. And I think it's important  
21 to note that it was a redesignation --

22 Q. Yes.

1           A.       -- and extension of Haiti for TPS.

2           Q.       Okay?

3           A.       Following that 2011 redesignation  
4       and extension, there were a series of  
5       extensions.

6           Q.       All right. And in that -- in that  
7       2011 time frame as well as the subsequent  
8       extensions, were current conditions reviewed as  
9       a part of the process in -- in deciding whether  
10      or not a redesignation and extension should be  
11      granted?

12                   MR. MARUTOLLO: Objection. The  
13      decisions speak for themselves. The witness  
14      wasn't even working at USCIS for -- I believe  
15      for half that period. It calls for legal  
16      conclusion. Calls for speculation.

17                   But with that caveat, and to your  
18      personal knowledge, you can answer the  
19      question.

20                   THE WITNESS: I started working on  
21      the TPS portfolio in approximately late summer  
22      or fall 2014 I believe. So I don't have

1 personal knowledge of what happened before  
2 then.

3 BY MR. CONNELLY:

4 Q. Okay. After at the time. Let -- so  
5 we'll just take it, you know, whatever  
6 extensions occurred between 2014 through 2017.

7 A. Could you ask --

8 MR. MARUTOLLO: Can I get -- yeah.

9 I'm sorry. Go ahead.

10 THE WITNESS: Yeah. Could you ask  
11 the question again. I'm sorry.

12 BY MR. CONNELLY:

13 Q. To your recollection, were -- when  
14 the extensions that -- that occurred between  
15 2014 and 2017 for Haiti took place, was a part  
16 of the process in making that determination to  
17 take a look at the current conditions in Haiti,  
18 during, you know, whatever year was in  
19 question, be it 2014, '15 or '16?

20 A. Yes. Part of the review process was  
21 to look at current conditions in Haiti.

22 MR. CONNELLY: Okay. I'm going to

1 walk you through the redesignation in 2011 and  
2 then some of the extensions that occurred  
3 afterwards as the next series of documents.

4 THE WITNESS: Okay.

5 MR. CONNELLY: So we'll call the  
6 first one that I will show you KA-2.

7 (Deposition Exhibit KA-2 was marked  
8 for identification.)

9 THE WITNESS: Thank you.

10 MR. CONNELLY: I think I'm a little  
11 ahead of myself.

12 BY MR. CONNELLY:

13 Q. Do you have that before you?

14 A. I do.

15 Q. KA-2?

16 And if you still -- you -- and you  
17 have the original document in front of you.

18 K -- KA-1 is the -- help me with the  
19 acronym.

20 Is -- is this the FRN no -- or the  
21 FRN for the initial designation of temporary  
22 protective status --oh, I'm sorry. I'm sorry.

1                   Forget about everything I just said.

2           I'm -- I'm back on track now.

3                   The first document I showed you was  
4   just a general statute, correct?

5           A.     KA-1 is, yes, the TPS statute.

6           Q.     Yeah. Okay.

7                   KA-2, is this the official notice  
8   that Haiti has been put on Temporary Protected  
9   Status as of January 21, 2010?

10          A.     I'm just looking at this, but it  
11   looks to be the redesignation in 2011.

12          Q.     I've got -- yeah. We'll -- we'll --  
13   we'll get on track. We'll be okay with this.

14                   I've got -- I've got -- what's  
15   before you?

16                   Just read the top of the document.  
17   We'll get -- we'll get back on track.

18          A.     76FR29000-01.

19                   MR. CONNELLY: Ah. Okay. Okay.  
20   Fine. All right.

21                   Do we have -- do we have copies of  
22   the original? Yeah. Will you hand me this.



1                   Let -- let's -- I'm going to -- I'm  
2   going to give you another document. And we'll  
3   call it 2A.

4                   (Deposition Exhibit KA-2A was marked  
5   for identification.)

6                   THE WITNESS: Thank you.

7                   MR. MARUTOLLO: So do you have  
8   copies of that document?

9                   MR. CONNELLY: Oh, I'm sorry.

10                  (Discussion off the stenographic  
11   record.)

12                  BY MR. CONNELLY:

13                  Q. And what -- what is document 2A?

14                  (Discussion off the stenographic  
15   record.)

16                  THE WITNESS: I'm sorry?

17                  BY MR. CONNELLY:

18                  Q. What is document that we've -- we've  
19   now labeled KA-2A?

20                  A. From the title, it appears to be the  
21   federal register notice announcing Haiti's  
22   designation for TPS in 2010.

1 Q. Okay. And am I correct that, given  
2 what you've told me about your own time at CIS,  
3 this was done before you were in Washington,  
4 correct?

5 A. That is correct.

6 Q. Okay. If you wouldn't mind, if you  
7 would go to the third page of the document. In  
8 bold type, about a quarter of the way from the  
9 top, there is a question: "Why is the  
10 secretary designating Haiti for TPS?"

11 Do you see that?

12 A. I do.

13 Q. Did you ever have any reason, in the  
14 course of your later duties, to become familiar  
15 with this particular document?

16 MR. MARUTOLLO: Objection. Again,  
17 you know, it's vague. The witness is not a  
18 30(b)(6) witness.

19 But you can answer the question to  
20 the extent you became aware of this document.

21 THE WITNESS: Yes. I reviewed this  
22 document in working on Haiti TPS.

1 BY MR. CONNELLY:

2 Q. And -- and explain that just a  
3 little bit.

4 Why -- why was it useful for you to  
5 go back and review this document in your latter  
6 duties at CIS?

7 A. It was helpful to look at this to  
8 see the bases upon which the original decision  
9 had been made, to see the country conditions  
10 that were cited as the reason for the  
11 designation.

12 And also we often generally used  
13 previous federal register notices as the basis  
14 for drafting future federal register notices.

15 Q. Now let's go to the next doc -- the  
16 document that you already have before you,  
17 which we've labeled KA-2.

18 Tell me what that document is.

19 A. So this looks to be the Federal  
20 Register notice from 2011 announcing the  
21 extension and redesignation of Haiti for TPS.

22 Q. Okay. And again, this was -- you

1 weren't in Washington at the time of this  
2 extension and redesignation; is that right?

3 A. That's right.

4 Q. But did you similarly draw on this  
5 document in some capacity for your own work  
6 once you were in Washington?

7 MR. MARUTOLLO: Objection.

8 You can answer.

9 THE WITNESS: I did -- I did review  
10 this document, yes.

11 BY MR. CONNELLY:

12 Q. For the same purposes as you've  
13 already explained, that you had reviewed the  
14 earlier one?

15 A. Yes.

16 Q. You made a point, and I appreciate  
17 that this document is not merely an extension;  
18 it's also a redesignation, correct?

19 A. Correct.

20 Q. And in -- in the first narrative  
21 paragraph of the document on the first page,  
22 does that explain what purpose is served by a

1     redesignation as opposed to, you know, merely  
2     having an extension?

3             MR. MARUTOLLO: Objection.

4             Again, you're not a 30(b)(6)  
5     witness. You weren't drafting this document.  
6     You're a fact witness. It -- the document  
7     speaks for itself.

8             But you can answer the question.

9             THE WITNESS: I don't fully  
10    understand the question. I'm sorry.

11            BY MR. CONNELLY:

12            Q.     Okay. I -- I -- let -- let's --  
13    beyond this document -- but use it if it helps  
14    you a little bit -- are -- are you, from your  
15    own responsibilities, familiar with the  
16    redesignation process?

17            A.     Yes.

18            Q.     And -- and what impact does that  
19    have for -- let's -- we'll -- we'll use Haitian  
20    -- Haitians as an example.

21                   How is a redesignation process --  
22    how does that impact Haitians who may be in the

1 United States who weren't in the United States  
2 at the time of the original designation?

3 MR. MARUTOLLO: Objection. Calls  
4 for legal conclusion.

5 And again, not -- you're not a  
6 30(b)(6) witness.

7 But you can answer the question to  
8 the extent you're aware in your personal  
9 knowledge.

10 THE WITNESS: One of the primary  
11 functions of a redesignation, or distinctions,  
12 I should say, as opposed to an extension, a  
13 redesignation, because it is essentially just a  
14 new initial designation, allows for the  
15 secretary of Homeland Security to set a new  
16 continuous residence and continuous physical  
17 presence state for TPS beneficiaries, which  
18 functions to potentially allow for people who  
19 weren't originally eligible for TPS to apply  
20 for TPS under the redesignation.

21 MR. CONNELLY: All right. I'm going  
22 to give you the next document, which we're

1 going to label as K -- KA-4.

2 (Discussion off the stenographic  
3 record.)

4 (Deposition Exhibit KA-4 was marked  
5 for identification.)

6 BY MR. CONNELLY:

7 Q. Take a moment to acclimate yourself  
8 to this one-page e-mail.

9 A. Thank you.

10 Q. Is -- is this e-mail familiar to  
11 you?

12 MR. MARUTOLLO: But just make -- be  
13 sure you've a chance to read the whole --

14 MR. CONNELLY: Yeah, yeah. No. I'm  
15 sorry. No. I didn't mean to jump on you. No,  
16 no. Take your time and let me --

17 THE WITNESS: I need some --

18 MR. CONNELLY: Give me an  
19 indication --

20 THE WITNESS: -- additional time to  
21 read it. Yes.

22 MR. CONNELLY: -- when you're --

1 THE WITNESS: Thank you.

2 MR. CONNELLY: -- comfortable  
3 answering questions. Yeah.

4 THE WITNESS: Okay.

5 BY MR. CONNELLY:

6 Q. Okay. Do you have a recollection  
7 of -- of exchanging these e-mails?

8 A. I don't have an independent  
9 recollection apart from this document, but it  
10 looks like I did.

11 Q. But do -- let me ask you -- and  
12 again, I -- you know, it's -- it's backing into  
13 your comfort level.

14 Do you have any reason to think that  
15 this e -- that this e-mail was not generated on  
16 the times and dates that it indicates?

17 A. No.

18 Q. And is this -- was this an e-mail  
19 that was on your government computer to the  
20 government computer of Brook E. Hefright?

21 I probably just mispronounced her  
22 last name.



1 A. It's a he, and it's Hefright.

2 Q. Oh, okay.

3 A. Yes.

4 Q. Thank you.

5 A. Yes. I believe this was on our  
6 government e-mails.

7 Q. Okay. And was this e-mail, you  
8 know, generated in the ordinary course of  
9 business?

10 A. Yes.

11 Q. Okay. A long preface to -- but  
12 to -- to acclimate you, we're going out of  
13 sequence here a little bit only because what --  
14 what I just showed you was the redesignation  
15 and extension on -- in 2011. And it appears  
16 that this now April of 2017 e-mail exchange  
17 references back to that document.

18 A. That's my understanding.

19 Q. Okay. That -- I just -- as I say, I  
20 wanted you to understand why we're -- we're  
21 doing --

22 A. Yes.

1 Q. -- what we're doing right now.

2 All right. So let's -- you know,  
3 with all e-mail chains, we'll -- we'll find  
4 this, you know, throughout -- the earlier one  
5 is at the bottom, and then -- and -- and so  
6 it's -- it's usually a good idea to start  
7 there.

8 So first let me ask you what was  
9 your purpose in sending the e-mail to Mr.  
10 Hefright who appears to be over in the State  
11 Department?

12 MR. MARUTOLLO: Objection.

13 You know, again, to the extent this  
14 calls for internal government deliberations, I  
15 would instruct you not to answer on the  
16 deliberative process privilege.

17 To the extent you can answer based  
18 on the text that's in front of you, you can  
19 answer the question.

20 THE WITNESS: From the e-mail chain,  
21 it looks like he reached out to me with a  
22 question. So I was responding to him.

1 BY MR. CONNELLY:

2 Q. Okay. And help me out now a little  
3 bit. Let's stay in his e-mail for a moment  
4 with the acronyms.

5 He begins by saying: "Our A/AS sent  
6 back the Haiti TPS review package."

7 What is A/AS?

8 MR. MARUTOLLO: Objection.

9 You know, answer to extent you know.  
10 If you --

11 BY MR. CONNELLY:

12 Q. If you know. And, you know,  
13 obviously, if you don't know, you'll tell me  
14 that you don't know.

15 A. My understanding of what he meant is  
16 acting assistant secretary.

17 Q. Do you happen to recall who that was  
18 in April of 2017?

19 A. I don't know. It would have been  
20 for the Bureau of Population, Refugees and  
21 Migration. I don't know who it was.

22 Q. And -- and acting assistant

1 secretary of state or of Homeland Security?

2 A. I take it to mean of the Bureau of  
3 Population, Refugees and Migration at the U.S.  
4 Department of State.

5 Q. Okay.

6 A. It is definitely within state.

7 Q. Okay. All right. And then moving  
8 to the second sentence, he -- he -- I quote:  
9 Reading the FRN for the 2011  
10 extension/redesignation.

11 Do -- do you see that?

12 A. The first paragraph?

13 Q. First paragraph, second sentence.  
14 Yeah.

15 A. Yes.

16 Q. Okay. FRN is what?

17 A. Federal Register notice.

18 Q. Okay. And would that -- would that  
19 appear to be the document that I previously  
20 showed you?

21 Is that a reference to that  
22 document, or -- or -- or would it so appear?

1 MR. MARUTOLLO: Objection.

2 You can answer to the extent you  
3 know.

4 THE WITNESS: I believe it to be.

5 BY MR. CONNELLY:

6 Q. Okay. Okay. And then further in  
7 that sentence -- and I'll quote it -- he -- he  
8 says: "It looks like both were" -- "It looks  
9 like both were based on the same continuing  
10 temporary and extraordinary conditions - that  
11 is aftereffects of Hurricane Matthew."

12 Did you follow that?

13 A. I see that.

14 Q. Okay. Am I correct that Hurricane  
15 Matthew occurred in -- I think you've already  
16 referenced this -- 2016?

17 A. Yes.

18 Q. Okay. And the earthquake that  
19 caused the original designation, that occurred  
20 in 2010; is that correct?

21 A. Correct.

22 Q. Now, going to his second paragraph,

1 he states: "I've revised our AM."

2 What -- what is an AM?

3 MR. MARUTOLLO: Objection.

4 You can answer to the extent you  
5 know.

6 THE WITNESS: I believe it to be  
7 action memo.

8 BY MR. CONNELLY:

9 Q. Okay. And then further quoting,  
10 again now from his second sentence in the  
11 second paragraph: "We don't want to speculate  
12 that the cholera epidemic played into the  
13 decision to redesignate since it's not cited in  
14 the FRN. But the institutional memory here in  
15 PRM is that in 2011 people were looking at  
16 conditions in Haiti through the lens of the  
17 epidemic."

18 MR. MARUTOLLO: Objection.

19 I'm not sure what -- what the  
20 question is.

21 MR. CONNELLY: No. I -- I don't  
22 have a question yet. I just wanted to -- okay.

1 BY MR. CONNELLY:

2 Q. Were you able to follow along with  
3 me --

4 A. I see --

5 Q. -- on that?

6 A. -- that sentence, yes.

7 Q. Okay. And what is -- what is PRM?

8 A. PRM is, as cited below here, Bureau  
9 of Population, Refugees and Migration --

10 Q. I see. Okay.

11 A. At the Department of State.

12 Q. Okay. All right. Now, let's go up  
13 to your reply. And I don't know that I need to  
14 read it to you. But if you'll -- if you'll  
15 read it to yourself and tell me when you're  
16 ready for a question.

17 A. Okay.

18 Q. First, let me ask you,  
19 chronologically, am I correct that the  
20 earthquake occurred first, and the cholera  
21 epidemic did not break out until some time  
22 after the earthquake; is that correct?

1 MR. MARUTOLLO: Objection.

2 You can answer to the extent you're  
3 aware in your personal capacity -- personal  
4 knowledge.

5 THE WITNESS: That is my  
6 understanding.

7 BY MR. CONNELLY:

8 Q. Okay. And then you -- you indicate  
9 -- am I correct that the cholera epidemic and  
10 the public health concerns did play a big in  
11 the 2011 redesignation?

12 MR. MARUTOLLO: Objection.

13 Again, to the extent it calls for  
14 internal government deliberations, I'd instruct  
15 you not to answer under the deliberative  
16 process privilege.

17 But to the extent you're talking  
18 about this e-mail and about what you wrote in  
19 this e-mail, you can answer the question.

20 THE WITNESS: I did state in the  
21 e-mail that the cholera epidemic and public  
22 health concerns played a big role in the 2011



1     redesignation.

2                   BY MR. CONNELLY:

3           Q.     Yes.

4                   And then on -- in your next sentence  
5     did you also indicated that the redesignation  
6     also cited the severe insecurity that was  
7     still -- was -- still existed in certain camps?

8                   MR. MARUTOLLO: Objection. First,  
9     I -- I don't think that's exactly what was  
10    written here. But we would note, again, to the  
11    extent this calls for internal government  
12    deliberations, instruct the witness not to  
13    answer.

14                   She can certainly answer to the  
15    extent -- based on this e-mail in front of us.

16                   THE WITNESS: I stated that the  
17    redesignation cited the severe insecurity that  
18    those still in camps were facing.

19                   BY MR. CONNELLY:

20           Q.     Okay. And is your view on the --  
21    what you say in this e-mail, has it changed at  
22    all?

1 Does this remain your -- your  
2 personal view, that the cholera epidemic and  
3 the public health concerns and the severe  
4 insecurity in the camps were a part of the  
5 determination in 2011 to redesignate?

6 MR. MARUTOLLO: Objection. I'm  
7 going to direct the witness not to answer that  
8 question. It calls for internal government  
9 deliberations. And -- and it would implicate  
10 the deliberative process privilege.

11 But further, her personal view has  
12 no bearing on this case. So I'd instruct the  
13 witness not to answer that question.

14 MR. CONNELLY: I'm going to -- I'm  
15 only going to slightly change the question.  
16 Maybe your lawyer will continue not to want you  
17 to answer it.

18 BY MR. CONNELLY:

19 Q. Is what you stated, to your  
20 knowledge, to Mr. Hefright on April 10th, 2017,  
21 and your -- and your responsive e-mail  
22 accurate?

1 MR. MARUTOLLO: I'm sorry. Can you  
2 repeat the question?

3 MR. CONNELLY: Yeah.

4 BY MR. CONNELLY:

5 Q. I -- I -- I would like to know  
6 whether your -- your statement in your reply  
7 e-mail that we're looking at -- is that -- does  
8 that -- is that an accurate statement?

9 MR. MARUTOLLO: Objection. Again,  
10 to the extent this calls for internal  
11 governmental deliberations, I instruct the  
12 witness not to answer under the deliberative  
13 process privilege.

14 But given that clarification, you  
15 can answer that question.

16 THE WITNESS: I believe what I  
17 stated in this e-mail accurately captures my  
18 understanding of the 2011 redesignation.

19 BY MR. CONNELLY:

20 Q. Okay. Could you give me a -- a  
21 sense of how many extensions or determination  
22 decisions you've been involved in since coming

1 to Washington in 2014?

2 MR. MARUTOLLO: Objection. Vague.

3 But You can answer.

4 THE WITNESS: I'm not sure I can  
5 easily break it down for extension or  
6 terminations. But in terms of TPS designation  
7 decisions -- so initial designations,  
8 extensions, determinations, et cetera -- I  
9 would estimate probably around 15.

10 BY MR. CONNELLY:

11 Q. I'm sorry.

12 1-5?

13 A. Yes.

14 Q. Okay.

15 A. That's an estimate. I --

16 Q. Right?

17 A. -- haven't counted.

18 Q. Do you -- and do -- do you have a  
19 recollection of what -- what countries were  
20 involved in those determinations that you were  
21 involved in?

22 A. Sure. It would have been -- because

1 I worked on it for a number of years, it would  
2 have been actually all the countries, you know,  
3 that are currently designated for TPS. They  
4 would have come up for review, so I would have  
5 worked on all of those.

6 Additionally, some countries that  
7 are no longer designated, such Sierra Leone,  
8 Liberia, Guinea.

9 MR. CONNELLY: I'm going to show you  
10 a short series of extension documents that I  
11 don't think I'll have too many questions on.

12 The first one will be KA-5.

13 (Deposition Exhibit KA-5 was marked  
14 for identification.)

15 THE WITNESS: I see it.

16 BY MR. CONNELLY:

17 Q. Ready?

18 A. Yes.

19 Q. Okay. Are you familiar with this  
20 document?

21 MR. MARUTOLLO: Objection.

22 You can answer. Again, this is

1 before you worked at USCIS. But you can answer  
2 to the extent you became familiar with the  
3 document.

4 THE WITNESS: I believe I have seen  
5 it before. I'm not intimately familiar with  
6 this one.

7 BY MR. CONNELLY:

8 Q. Okay. And is this document what  
9 would be -- the acronym FRN would apply to it?

10 A. Yes.

11 Q. Okay. And if you'll go to Page 3,  
12 the format would appear to be similar to what  
13 we've already seen where there was a bolded  
14 title: "Why is the secretary extending the TPS  
15 designation for Haiti for TPS through July  
16 22nd, 2014?"

17 See that section?

18 A. I see it.

19 Q. Okay. And if you'll -- if you'll  
20 turn the page, if you go down maybe four  
21 paragraphs, there's a statement: "Poor camp  
22 conditions were exacerbated by steady rains in

1     October 2010, which lead to flooding and  
2     contributed to a deadly cholera outbreak."

3                     Do you see that?

4             A.     I see.

5             Q.     Okay. Did you ever -- to your best  
6     recollection, in your -- in your individual  
7     capacity, did you ever reference back to this  
8     section explaining why the extension was being  
9     made at this time?

10                    MR. MARUTOLLO: Objection. First,  
11     vague. And also I'm not sure what it means by  
12     "individual capacity."

13                    But to the extent -- to your  
14     personal knowledge you became aware of this or  
15     you dealt with this issue, you can answer.

16                    THE WITNESS: I don't recall if I  
17     ever looked back at this particular paragraph  
18     in the 2012 FRN.

19                    BY MR. CONNELLY:

20             Q.     All right. And to make clear, when  
21     I said "individual capacity" -- I know your  
22     lawyer's been concerned that I'm trying to turn

1     you in an ex -- into an expert, which -- which  
2     is not -- which is not my intent.

3                 By "individual capacity, I was  
4     short-handing referencing back that you had  
5     told us ten minutes or so ago that at least  
6     some documents that existed prior to your  
7     arrival in 2014, you -- you made some use of  
8     them during your duties.

9                 And I -- and I wondered whether this  
10    was one -- one such document.

11                A.     As I mentioned, I believe that I  
12    looked at this document at some point, yes.

13                MR. CONNELLY:   Okay.   Next I'll show  
14    you KA-6.

15                (Deposition Exhibit KA-6 was marked  
16    for identification.)

17                MR. MARUTOLLO:   Need some more  
18    water?

19                THE WITNESS:   Yeah.   That'd be  
20    great.

21                MR. MARUTOLLO:   Mind taking a  
22    one-minute break to get some more water for the



1 witness?

2 MR. CONNELLY: Yeah, yeah. Sure.

3 THE VIDEOGRAPHER: We're going off  
4 the record.

5 The time is 11:06.

6 (A short recess was taken.)

7 THE VIDEOGRAPHER: Going back on the  
8 record.

9 The time is 11:07.

10 BY MR. CONNELLY:

11 Q. Is Document KA-6 the FRN for the  
12 extension for Haiti for March 3rd, 2014?

13 A. It looks to be.

14 Q. Okay. Did you have any involvement  
15 in -- in -- in this process, or was it before  
16 your time in Washington?

17 A. This was before me.

18 Q. If you would go with me to the  
19 fourth page, again under that same, you know,  
20 general rubric that seems to be used for these  
21 FRNs, at the top of the page it says: "Why is  
22 the secretary extending the TPS designation for

1 Haiti through January 22nd, 2016?"

2 A. I see it.

3 Q. Okay. Way at the bottom of the  
4 page, and then it -- and then it spills over on  
5 to page 5, first it references the January 2010  
6 earthquake. We've already established  
7 that that -- that's when that occurred.

8 And then -- but then it makes a  
9 reference to: "In 2011 the Haitian economy  
10 began to slowly recover from the effects of the  
11 earthquake. However, Tropical Storm Isaac and  
12 Hurricane Sandy adversely affected the economic  
13 recovery in 2012."

14 Do you see that?

15 A. I do.

16 Q. Okay. And as a matter of calendar  
17 logic, those events occurred after the  
18 earthquake; is that right?

19 A. Yes.

20 Q. Do you recall whether you ever  
21 referenced back to this particular document  
22 after you became more actively involved in the

1 process of designations or extensions?

2 MR. MARUTOLLO: Objection.

3 But you can answer.

4 THE WITNESS: I'm sure, again, I  
5 looked at this at some point.

6 MR. CONNELLY: All right. Let's  
7 move on to KA-7.

8 (Deposition Exhibit KA-7 was marked  
9 for identification.)

10 BY MR. CONNELLY:

11 Q. Is this the FRN for the extension of  
12 the TPS designation for Haiti on August 25th,  
13 2015?

14 A. It does look to be.

15 Q. Okay. Now, that would have been  
16 after you had taken over your position in late  
17 2014; is that correct?

18 A. I'm sorry.

19 What do you mean by position in  
20 2014?

21 Q. When you came to Washington as a  
22 policy analyst?

1 A. Yes.

2 Q. Okay.

3 A. In August 2015 I would have been a  
4 policy analyst.

5 Q. Yeah. Okay.

6 And did you -- did you participate  
7 in gathering information leading to the  
8 extension?

9 MR. MARUTOLLO: Objection.

10 To the extent it calls for internal  
11 government deliberations, I instruct you not to  
12 answer. But you could certainly testify about  
13 if you gathered any information.

14 THE WITNESS: I believe that I did.

15 BY MR. CONNELLY:

16 Q. And to your best recollect, what was  
17 your role in the process?

18 A. I don't have a specific recollection  
19 of this Haiti review. But as I mentioned  
20 earlier, generally my role in the process was  
21 to kick off the gathering of country  
22 conditions, review them, and draft the initial

1 memo.

2 Q. And your memo would have been --  
3 then traveled to -- to what office?

4 A. Sure. It would have worked its way  
5 up through our office, the office of policy and  
6 strategy. And then it would have gone to the  
7 director's office in USCIS and ultimately to  
8 the secretary.

9 Q. And am I right that your initial  
10 memo would have been based, as you told us a  
11 little bit earlier, on a -- a package of  
12 information you previously described that would  
13 be brought to your attention?

14 MR. MARUTOLLO: Objection.

15 Again, to the extent it calls for  
16 internal government deliberations, instruct you  
17 not to answer. To the extent you can answer  
18 about generally what was part of that package,  
19 you can answer the general subject matter.

20 THE WITNESS: We generally, yes,  
21 pulled the package together in our office. So  
22 that would have consisted of country conditions

1 provided by our research unit within USCIS as  
2 well as the department of state recommendation  
3 and then this, as I mentioned, draft  
4 recommendation memo from the USCIS director to  
5 the secretary of Homeland Security.

6 BY MR. CONNELLY:

7 Q. If you'll go with me to Page 4 of  
8 this document. And again, the same section  
9 spelling out: "Why is the secretary extending  
10 the TPS designation for Haiti through July  
11 22nd, 2017?"

12 Are you with me on Page 4?

13 A. I'm on Page 4, yes.

14 Q. Okay. And I will represent -- but  
15 give yourself an opportunity to -- you know, to  
16 review the information that's on Page 4 through  
17 Page 5.

18 But is part of the -- part of the  
19 conditions that are said to be prompting -- or,  
20 well, a part of the redesignation and -- and  
21 extension process the cholera epidemic?

22 MR. MARUTOLLO: I would just ask the

1 witness to take a moment to read --

2 MR. CONNELLY: Yeah. Yeah, please.

3 MR. MARUTOLLO: -- page 4 and 5.

4 BY MR. CONNELLY:

5 Q. I -- I could bring you -- I could  
6 bring you to those sections if it's easier. I  
7 just don't want to -- if you'd -- if you'd  
8 rather look at the entire page, you should feel  
9 free.

10 A. Are you looking at the  
11 second-to-last paragraph on that page?

12 Q. No. Actually, let's -- I'll tell --  
13 I'll you where I'm at. The second paragraph on  
14 the page mentions on the second line a cholera  
15 epidemic.

16 Do you see that reference?

17 A. I do.

18 Q. And then, if you go down two  
19 paragraphs to the paragraph that begins "While  
20 the country continues," in the middle of that  
21 paragraph there's a reference to: "Most camps  
22 lacking waste management services and adequate

1 sanitation facilities - leading to a high risk  
2 of cholera transmission - and possessing  
3 malnutrition rates," et cetera.

4 Do you see that?

5 A. I do.

6 Q. Okay. And then I guess you --  
7 you -- you may have spotted something a little  
8 further down on the page that also references  
9 the concerns with -- oh, yeah, I see --  
10 cholera -- the -- the second-to-the-last  
11 paragraph starts: "As of December 2014, the  
12 cholera epidemic has affected approximately"  
13 725 -- "725,000 people and claimed over 8,800  
14 lives in Haiti since October 2010."

15 A. I see that.

16 Q. Okay. And it's -- it's -- it's a --  
17 it's a calendar truth, is it not, that the --  
18 the -- the cholera problem did not exist at the  
19 moment of the earthquake; it came about after  
20 the earthquake, right?

21 MR. MARUTOLLO: Objection.

22 Again, to the extent you know in



1 your duties while at USCIS, you can answer the  
2 question.

3 THE WITNESS: My understanding is  
4 the cholera -- the cholera epidemic in Haiti  
5 began after the earthquake, yes.

6 BY MR. CONNELLY:

7 Q. Okay. And -- and am I correct  
8 that -- it seems patently obvious, but let me  
9 ask you -- that thinking about things --  
10 current conditions such as the cholera  
11 epidemic, it was entirely appropriate for the  
12 secretary to consider those factors in the  
13 extension of a determination that had  
14 originally been made largely because of the  
15 earthquake.

16 MR. MARUTOLLO: Objection. Again,  
17 that calls for the fact witness's view. She's  
18 not a 30(b)(6) witness. Calls for legal  
19 conclusion.

20 So I'd instruct her not to answer  
21 that question as -- as phrased.

22 BY MR. CONNELLY:

1 Q. Did you find -- and -- and -- and --  
2 well, did you became -- I take it, because you  
3 were involved in the process, ultimately you  
4 saw -- you had a chance and -- and -- and saw  
5 the FNR [sic] of August 25th, 2015, correct?  
6 The document KA-7 that's before you?

7 A. I worked on this document, yes.

8 Q. Yeah. Okay.

9 Did you find anything inappropriate  
10 about the cholera epidemic being considered as  
11 one of the factors for the extension?

12 MR. MARUTOLLO: Objection.

13 To the extent that it calls for  
14 internal government deliberations, I would  
15 instruct you not to answer. To the extent it's  
16 about your understanding of certain factors,  
17 you can answer -- in your own capacity you can  
18 answer.

19 THE WITNESS: I'm sorry. Can you  
20 repeat the question for me.

21 BY MR. CONNELLY:

22 Q. Yeah.

1           In your own capacity, but obviously,  
2   you know, within -- with -- within your  
3   official duties, did you think it was  
4   appropriate that the cholera epidemic was  
5   considered as one of the current conditions in  
6   Haiti when making a decision about extending  
7   the designation?

8           MR. MARUTOLLO: Again, I would  
9   instruct you not to answer to the extent it  
10   calls for any internal government deliberations  
11   on the grounds of deliberative process  
12   privilege.

13           And it also calls for legal  
14   conclusion about what is or is not appropriate.

15           So I'd instruct the witness not to  
16   answer.

17           MR. CONNELLY: We're going to stay  
18   on this. Or -- or something's going to happen,  
19   and we'll -- somebody else will solve this  
20   issue for me.

21           BY MR. CONNELLY:

22           Q.    In -- if you could bring yourself

1 back to this time in -- which -- which  
2 ultimately generates an FNR in August 2015,  
3 correct?

4 A. I'm sorry. Is it -- 2015. Yes.  
5 Sorry.

6 Q. Yeah. Okay.

7 And we're -- and we're, again, in  
8 this, you know, section that's formatted into  
9 the extensions, giving the reason why an  
10 extension should be granted, correct?

11 A. Correct.

12 Q. And would you agree with me that  
13 among the reasons that are given for the  
14 extension are repeated references to a cholera  
15 epidemic?

16 MR. MARUTOLLO: Object --

17 BY MR. CONNELLY:

18 Q. Can we agree on that?

19 MR. MARUTOLLO: Objection to the  
20 extent the document speaks for itself.

21 But yes, you can answer the  
22 question.

1 THE WITNESS: Yes.

2 BY MR. CONNELLY:

3 Q. Okay. Is that -- is -- is -- from  
4 your perspective as someone involved in this  
5 process, was it appropriate to think about  
6 current conditions that existed in Haiti  
7 subsequent to the January 2010 earthquake?

8 MR. MARUTOLLO: Objection.

9 To the extent it calls for internal  
10 government deliberations, I would instruct you  
11 not to answer. However, to the extent it's  
12 from your perspective, you -- and as raised by  
13 counsel, you can -- you can answer that  
14 question.

15 THE WITNESS: Yes. I believe that a  
16 review of currently existing conditions in the  
17 country designated for TPS is an important part  
18 of considering whether the designation should  
19 be extended or terminated.

20 BY MR. CONNELLY:

21 Q. All right. And -- and currently  
22 existing conditions would not necessarily have

1     existed at the time of the initial designation,  
2     correct?

3                   MR. MARUTOLLO:   Objection.

4                   You can answer.

5                   THE WITNESS:   Yes.   Current  
6     conditions would not have necessarily existed  
7     at the time of the initial designation.

8                   MR. CONNELLY:   I'll stay on the  
9     record.

10                   And -- and -- and your lawyer should  
11     and has the perfect right to try to make sure  
12     that you're -- you know, that you don't answer  
13     questions that -- that are -- that are  
14     privileged.   I -- I -- I'm not trying to break  
15     through that privilege.

16                   I'm -- I'm never seeking to have you  
17     tell me about some deliberative process that  
18     took place between you and others, you know,  
19     inside -- inside the government, although some  
20     of your e-mails you'll -- we'll see about, you  
21     know, whether you would quarrel with that.

22                   But when I'm asking you these

1 questions, I -- I don't want you to tell me,  
2 "Well, somebody told me this," or, "I" -- you  
3 know, or, "Some" -- "Someone told me that."

4 I'm -- I'm simply trying to probe  
5 what you -- within your own responsibilities  
6 and doing your own job, what kind of factual  
7 information you considered or -- and considered  
8 appropriate in making determinations about the  
9 extensions or redesignations.

10 THE WITNESS: Okay.

11 MR. CONNELLY: So we'll go to the  
12 next document, KA-8.

13 (Deposition Exhibit KA-8 was marked  
14 for identification.)

15 BY MR. CONNELLY:

16 Q. I'm going to be asking you about,  
17 you know, a very narrow part of this document  
18 relating to Haiti. But acclimate yourself, and  
19 then let me know --

20 A. Sure.

21 Q. -- when you're comfortable ask --  
22 for me to ask questions.

1           A.     You can direct me to a part if you  
2     want.

3           Q.     Okay. First let me point out that  
4     the title page of this document is "Temporary  
5     Protected Status: Calendar Year 2016 Annual  
6     Report, Report to Congress," and then "Insert  
7     Date."

8                     You see -- you see all that on the  
9     title page?

10          A.     I do.

11          Q.     So that would certainly suggest to  
12     me that this was -- somehow this was not --  
13     this -- the document that I have is not  
14     finalized.

15                    Do you have any -- do you have any  
16     independent recollection of this document?

17          A.     I do.

18          Q.     Okay. And I -- and again, I -- I  
19     apologize for -- I have what I've -- what --  
20     what's available to me.

21                    Do you recall whether this ever  
22     became finalized or at least a -- a date was



1 inserted for it?

2 A. I believe that it was. So I assumed  
3 that it was a draft. So I'm not sure which  
4 draft this was. But yes, I think that the  
5 final report did go to congress.

6 Q. Did you have a role in pulling  
7 together this report?

8 A. I reviewed and provided input, yes.

9 Q. If you'll go to the fourth page in,  
10 which is Roman numeral IV. Or -- or the Bates  
11 number on the bottom is 399.

12 A. I see.

13 Q. See that?

14 A. Uh-huh.

15 Q. And it indicates: "The secretary  
16 did not announce any TPS actions regarding  
17 Haiti, as well as several other countries, in  
18 calendar year 2016, although their existing  
19 designations were ongoing through calendar year  
20 2016."

21 Is that -- did I read that  
22 correctly?

1 A. Yes.

2 Q. Okay. And does that comport with  
3 your recollection of what occurred as far as  
4 Haiti's designation in 2016?

5 A. Yes.

6 Q. If you'll go a little -- why don't  
7 you skip a lot of pages but go to Page 24,  
8 which is also deposition No. 425 -- I'm  
9 sorry -- Bates No. 425 on the bottom.

10 A. Okay.

11 Q. And take a look at this for a  
12 minute. Because it -- it -- it covers a couple  
13 of pages. Acclimate yourself to it.

14 A. Okay.

15 Q. Did you have -- did you have a hand  
16 in the process of pulling together this  
17 information?

18 MR. MARUTOLLO: Objection.

19 You can answer.

20 THE WITNESS: I did review and  
21 provide input for this report.

22 BY MR. CONNELLY:

1           Q.     Do you recall -- and again, you may  
2     want to slow down a little bit.

3                     To -- to the best of your  
4     recollection, is all of the information  
5     contained in these two pages regarding the --  
6     the circumstances in Haiti accurate?

7                     MR. MARUTOLLO:  Objection.

8                     Again, I'd first just instruct the  
9     witness to read the full two pages.

10                    But again, as -- in -- in your role,  
11    if you can make that determination, then you  
12    can answer the question.  Again, not as a  
13    30(b)(6) witness but as a fact witness, if you  
14    can -- if you believe that this information is  
15    accurate, you can answer the question.

16                    THE WITNESS:  I believe that the  
17    country conditions stated here are supposed to  
18    be an exact duplicate of what is in the Federal  
19    Register --

20                    MR. CONNELLY:  Okay.

21                    THE WITNESS:  -- notice that we  
22    looked at for 2015.  I -- unless you want me to

1 do a line-by-line comparison, I don't want to  
2 certify here that -- that they are exactly the  
3 same. But I think the idea was that this  
4 section was supposed to be copied and pasted  
5 from the Federal Register notice.

6 BY MR. CONNELLY:

7 Q. Okay. Well, and again, whether you  
8 want to look at -- and again, I don't care -- I  
9 don't -- I don't really care if they're a  
10 mirror image.

11 But if you -- if you're more  
12 comfortable taking a look at the information in  
13 the -- in the FRN. I would just like your  
14 best -- best recollection, not based upon  
15 deliberating with anyone else, whether the  
16 information that's contained, whether it's in  
17 the FRN or whether it's in the -- you know, the  
18 document that you've before you, this -- this  
19 summary of the circumstances in Haiti, as best  
20 you recall, if it's accurate.

21 MR. MARUTOLLO: Objection.

22 You can answer.

1 THE WITNESS: I would say that we  
2 rely on a lot of people to pull together the  
3 country condition information and statistics  
4 about what is going on in Haiti at the time.

5 So I can't personally speak to  
6 whether these -- each fact is -- is correct.  
7 But I believed it to be as accurate as we could  
8 get, which is why we relied upon it.

9 MR. CONNELLY: I'll go to KA-9.

10 (Deposition Exhibit KA-9 was marked  
11 for identification.)

12 BY MR. CONNELLY:

13 Q. Let me know when you've familiarized  
14 yourself with the document.

15 A. Okay.

16 Q. All right. This document apparently  
17 was put out by the refugee asylum at  
18 International Operations Research Unit; is  
19 that -- is that correct?

20 A. Yes.

21 Q. And that is the part of CIS that you  
22 recently joined a few weeks ago?

1 A. Not the research unit --

2 Q. Well --

3 A. -- but RAIIO, the --

4 Q. Okay.

5 A. -- Refugee Asylum and International

6 Operations --

7 Q. Okay.

8 A. -- directorate.

9 Q. All right. And are -- are you  
10 familiar with this document?

11 MR. MARUTOLLO: Objection.

12 You can answer.

13 THE WITNESS: I'm not entirely sure  
14 if this is a draft or final, where this came  
15 from. But the general TPS addendum about  
16 Hurricane Matthew provided by RAIIO, yes.

17 BY MR. CONNELLY:

18 Q. Okay. Did you have any -- did you  
19 have any role in generating this document?

20 A. I wasn't involved in the drafting of  
21 the document. But the -- my recollection is  
22 that we asked the research unit to provide an

1 update on conditions in Haiti related Hurricane  
2 Matthew.

3 Q. Okay. And as noted in the first  
4 sentence, Hurricane Matthew occurred in October  
5 2016, correct?

6 A. Correct.

7 Q. And this is the first time I'm  
8 showing you a -- a document coming from RAIIO.  
9 And obviously, you know, it -- it indicates  
10 that it's an -- it's a Haiti TPS addendum. So  
11 help -- help me understand.

12 How -- how frequently or perhaps not  
13 frequently did RAIIO, the research unit, provide  
14 information as far as Haiti and its TPS status?

15 MR. MARUTOLLO: Objection.

16 Again, to the extent you can answer  
17 based on your knowledge as a fact witness, you  
18 can answer.

19 THE WITNESS: Usually the research  
20 unit would provide information when our office  
21 requested it of them. So generally, throughout  
22 the TPS review process, they would produce an

1 initial report related to the TPS designation.

2 And then, you know, if we needed updated

3 information, possibly because something

4 significant had happened in the country since

5 they had done their previous report, we would

6 ask them to update that information for us.

7 BY MR. CONNELLY:

8 Q. Okay. And again, just as a matter

9 of calendar, the hurricane occurred in October

10 2016, and this indicates last updated February

11 7th, 2017, correct?

12 A. Yes.

13 Q. Which would have been about 90 days,

14 a hundred days after the hurricane blew through

15 Haiti; is that correct?

16 I don't worry --

17 A. Without doing --

18 Q. -- about the math.

19 A. -- the math, it was after.

20 Q. Yeah. Well --

21 A. October to February.

22 Q. Yeah. Well, the -- and the reason I



1 ask you that is I don't know whether that helps  
2 at all in your recollect.

3 Is -- is it -- if you've a real  
4 recollection. I'm not trying to put words in  
5 your mouth.

6 Is it -- is it that the RAIIO, you  
7 know, a reasonable time after the hurricane,  
8 someone asked them to assess, okay, what's the  
9 impact of Hurricane Matthew? Tell us -- tell  
10 us, you know, what the impact is in -- in Haiti  
11 from the hurricane.

12 A. We'd been closely watching the  
13 impact of the hurricane since October 2016.  
14 I'm not exactly sure, without having further  
15 record of what prompted this particular update.

16 But my guess is that this was part  
17 of the -- the TPS review process for Haiti.  
18 And the existing report that RAIIO had put out,  
19 you know, didn't have this current information  
20 about the hurricane.

21 And the recovery from the hurricane  
22 continued to evolve. So the information that

1 was available in October 2016, you know, wasn't  
2 the same as what the status was in February  
3 2017.

4 Q. All right. And if you'll note --  
5 and I -- and I -- in the third paragraph, it --  
6 it --it indicates: "However, it will likely  
7 take Haiti years to recover from the damages of  
8 Hurricane Matthew."

9 A. I see that.

10 Q. All right. Let me ask a -- going  
11 back to the first paragraph. There's a  
12 reference to the El Nino induced drought.

13 Do you see that?

14 A. Okay.

15 Q. Do you have -- do you recall --  
16 when -- when did that occur?

17 A. I don't know.

18 Q. Do you know whether there was -- are  
19 you able to tell me whether it occurred before  
20 or after the January 2010 earthquake?

21 A. I don't want to speculate. I'm not  
22 sure.

1 Q. Is it correct to say that Hurricane  
2 Matthew was a subsequent environmental event  
3 occurring after the January 2010 earthquake?

4 MR. MARUTOLLO: Objection. Vague.  
5 But you can answer.

6 THE WITNESS: Yes.

7 MR. CONNELLY: Okay. We're about to  
8 go into some e-mails, which will occupy us for  
9 a while. And we don't have to take a break  
10 right now. I'm just -- I'm -- I'm just giving  
11 you that just as a --

12 MR. MARUTOLLO: Sure. Why don't we  
13 take a...

14 THE WITNESS: I think that'd be  
15 great.

16 MR. MARUTOLLO: Do you want to take  
17 a -- a --

18 MR. CONNELLY: Whatever you --

19 MR. MARUTOLLO: -- a short break and  
20 then --

21 MR. CONNELLY: Whatever you guys  
22 need.

1 MR. MARUTOLLO: -- come back --

2 MR. CONNELLY: Sure. Yeah.

3 MR. MARUTOLLO: -- and have a lunch  
4 break maybe after that?

5 MR. CONNELLY: Yeah. What -- what  
6 do you guys want to do for -- I mean what would  
7 you -- what's your preference for lunch?

8 THE VIDEOGRAPHER: I'm just going to  
9 take us off real quick.

10 MR. CONNELLY: Oh.

11 THE VIDEOGRAPHER: We're going off  
12 the record.

13 The time is 11:32.

14 (A short recess was taken.)

15 THE VIDEOGRAPHER: We're going back  
16 on the record.

17 The time is 11:41.

18 MR. CONNELLY: Before we get to some  
19 e-mails, I'm going to show you a copy of  
20 handwritten documents that I believe are yours.  
21 But you'll -- you -- you can help confirm that.

22 The first one is going to be --

1 let's make this KA-50.

2 (Deposition Exhibit KA-50 was marked  
3 for identification.)

4 (Discussion off the stenographic  
5 record.)

6 THE WITNESS: Thank you.

7 BY MR. CONNELLY:

8 Q. Is that your handwritten note?

9 A. Yes. It looks to be.

10 Q. Okay. I'm going to show you a -- a  
11 further series, just to see if you can confirm.  
12 And I hadn't seen these until yesterday, so  
13 help me out a little bit.

14 When -- when was this -- when was  
15 KA-50 generated?

16 A. It looks like I dated it at the top  
17 5-31-17.

18 Q. Okay.

19 A. So I think that that was the date  
20 that I wrote this.

21 MR. CONNELLY: And -- well, let  
22 me -- let me give you the next one. I'll give

1     you KA-51.

2                   (Deposition Exhibit KA-51 was marked  
3     for identification.)

4                   BY MR. CONNELLY:

5           Q.     Is this also your handwritten note?

6           A.     Yes.

7           Q.     And I'm giving you these in the  
8     order of the Bates numbers on the bottom.  
9     You'll see the first -- the KA-50 is Anderson  
10    7, and KA-51 is a couple of pages.  It's  
11    Anderson 8 through 10.  Okay?

12          A.     Okay.

13          Q.     Do you know when you generated  
14    KA-51?

15          A.     I think that these are my notes from  
16    a media background call related to the Haiti  
17    TPS decision in May 2017.

18                   To the best of my recollection, I  
19    think they were probably May 20th, 2017, but  
20    I'm not 100 percent certain on the exact day.

21                   MR. CONNELLY:  I'll give you KA-52.

22                   (Deposition Exhibit KA-52 was marked

1 for identification.)

2 BY MR. CONNELLY:

3 Q. And this document runs several  
4 pages. The Bates numbers are Anderson 12  
5 through Anderson 18.

6 Do you recall when you generated  
7 these -- well, first confirm for me that these  
8 are all your notes, and then if you can tell me  
9 when you think you generated them.

10 A. They do look to be my notes. And I  
11 believe these were notes from a general TPS  
12 meeting with Secretary Kelly. I think that was  
13 held a few days following the May 2017 Haiti  
14 decision announcement.

15 And to the best of my recollection,  
16 I would put this at May 23rd, 2017.

17 Q. I'm sorry. I thought you said that  
18 you -- maybe I didn't follow. I thought you  
19 said that you thought these were generated  
20 after the announcement.

21 If the announcement was May 27th, I  
22 missed -- then how would it be May 23rd?

1           A.     I guess I was recalling that the  
2     secretary's announcement was May 20th.

3           Q.     Okay.

4           A.     But that could be mistaken on the  
5     exact dates.

6           Q.     And I didn't -- and I don't mean to  
7     confuse you, but do -- your -- your best  
8     recollection is that the -- the notes on KA-52  
9     were generated shortly after the late May  
10    announcement by Secretary Kelly of the  
11    extension?

12          A.     Yes. After DHS had made the -- the  
13    public announcement of the decision. Not  
14    necessarily after the federal register notice  
15    published. Maybe that's the confusion about  
16    the announcement date.

17          Q.     Okay. And I see on these notes --  
18    we'll -- we'll explore these, as I say. We'll  
19    -- I'll -- I'll fold these into your -- the --  
20    my -- my outline when we get to these dates.

21                   But on this page the, at least on  
22    the first page, most of the points are -- are



1 preceded by an asterisk.

2 Do you see that?

3 A. I do.

4 Q. Does that have -- what -- does that  
5 have any import, or what -- what does that  
6 convey when you're taking your notes?

7 A. I'm not entirely sure. I think that  
8 was just kind of separate and distinct  
9 thoughts, kind of bullet point ideas to  
10 separate them from each other.

11 MR. CONNELLY: Next I'll have you  
12 look at KA-53.

13 (Deposition Exhibit KA-53 was marked  
14 for identification.)

15 BY MR. CONNELLY:

16 Q. These are actually -- according to  
17 the Bates stamping, these are Anderson 1  
18 through 5. I don't know whether that'll help  
19 you at all in terms of, you know, determining  
20 at what time you made these notes.

21 But let's first ask whether these  
22 are your notes.

1 A. Yes.

2 Q. And do you -- what's your best  
3 recollection of when they were made?

4 A. I believe these were made during a  
5 meeting with Deputy Secretary Duke, also in  
6 that May 2017 time frame. And to the best of  
7 my recollection, I believe this meeting was  
8 held on May 19th, 2017.

9 Q. Is your -- and -- and again, we'll  
10 get -- we'll -- we'll -- we'll be able to  
11 tighten up on this.

12 Is your present best recollection  
13 were -- were these notes made after the  
14 decision to go with the six-month extension  
15 some time in late May of 2017?

16 MR. MARUTOLLO: Objection.

17 You can answer.

18 THE WITNESS: In reviewing the  
19 notes, it appears that the decision had been  
20 made internally, at least. I'm not sure that  
21 it had been publicly announced at this time.

22 BY MR. CONNELLY:

1 Q. Okay. To make my life a little  
2 easier and all of our lives a little faster  
3 when we finally get to these, you'll notice on  
4 the third line -- and you help me out -- is it  
5 S2, or is it SZ?

6 I -- I can't tell.

7 A. Sure. S2.

8 Q. Okay. What -- what is that a  
9 reference to?

10 A. Deputy secretary.

11 Q. What's that secretary's name?

12 A. It was Deputy Secretary Duke.

13 Q. Okay. And I think -- am I right  
14 that all -- all of these notes are related to  
15 and seem to be in -- in the May time frame and  
16 are related to Haiti in general and maybe more  
17 specifically, although we haven't gone through  
18 all the lines, but perhaps, you know, more  
19 specifically the decision to extend in May of  
20 2017?

21 A. I'm just thinking. That was a lot  
22 of questions in one.

1 I think that some of -- they were  
2 certainly made in the May 2017 time frame.  
3 Some of them related to the Haiti TPS decision  
4 made at that time. But some of the meetings  
5 were pulled together to more generally discuss  
6 the TPS process.

7 Q. Fine. Fine. I didn't mean to --

8 A. No, no --

9 Q. -- restrict you --

10 A. That's fine --

11 Q. -- to that -- that it's exclusively  
12 Haiti. I was just trying to -- but -- okay.

13 So if we -- but if have -- we've  
14 reached that common ground that these are, you  
15 know, your best recollection. They're all made  
16 in a reasonably close time frame, at least  
17 somewhat -- at least partially at least related  
18 to Haiti.

19 So with that by way of -- of  
20 background, did you take any other notes  
21 regarding the Haiti decision to terminate or  
22 the -- or -- or a decision to extend, other

1     than these notes, which all seem to be, you  
2     know, just in -- in the May 2017 time frame?

3           A.     No.     These are the handwritten notes  
4     that I have related to Haiti TPS.

5           Q.     And how -- I mean is it your  
6     ordinary process to take handwritten notes, or  
7     -- or is it unusual for you to do so?

8                   MR. MARUTOLLO:   Objection.

9                   You can answer.

10                  THE WITNESS:    I would say it varies.  
11     Depends on my mood.

12                  BY MR. CONNELLY:

13           Q.     Does -- when we get there, we can  
14     talk about it a little bit more.   But again, I  
15     -- and maybe I'm being redundant.   But just to  
16     be -- I want to make sure that I'm not missing  
17     an opportunity.

18                   To your best recollection, these are  
19     the only handwritten notes that you took, let's  
20     say during the course of 2017, regarding the  
21     various decisions about the TPS status of  
22     Haiti?

1           A.       That's correct.

2                   MR. CONNELLY:   Okay.   Well, let's  
3   put these aside.   As I say, we'll fold them in  
4   when we get to May of 2017.

5                   And I was about to hand you -- no.  
6   Maybe we haven't done it yet.

7                   So now we're going to go to KA-10.

8                   THE WITNESS:   I'm sorry.   Can I  
9   correct one thing?

10                  MR. CONNELLY:   Sure.   Sure.   Of  
11   course.   Well, listen to your lawyer.

12                  MR. MARUTOLLO:   Yeah.   Yeah.

13                  THE WITNESS:   There's another set of  
14   handwritten notes.   I didn't want to say these  
15   are the only ones.

16                  MR. MARUTOLLO:   That -- that's  
17   correct.   We did note in our letter last night  
18   there is one document -- and I'll just refer to  
19   the language in our letter that -- that may  
20   contain classified information that was not  
21   produced as -- as reflected in our letter last  
22   night.   So there was one other set of

1 handwritten notes. The witness is -- is  
2 accurate.

3 (Deposition Exhibit KA-10 was marked  
4 for identification.)

5 BY MR. CONNELLY:

6 Q. Have you had a chance to familiarize  
7 yourself with this document?

8 A. I'm still reading it.

9 Q. Okay. Let me know.

10 A. Okay.

11 Q. All right. Let start, as usual,  
12 from the -- the earliest e-mail, which would be  
13 the -- the last one on this two-page document.

14 So the first e-mail is from you to  
15 several people on February 3rd, 2017, at 10:14  
16 a.m.

17 Are -- are you there with me?

18 A. Yes.

19 Q. Okay. And am I right that the basic  
20 gist of -- of your e-mail is you're noting that  
21 there's, you know, a new administration, and so  
22 you're raising, as far as Haiti TPS, whether

1     there might be, you know, any changes in terms  
2     of TPS status of Haiti?

3                   MR. MARUTOLLO:  Objection.

4                   You can answer.  I mean to the  
5     extent the document speaks for itself.  But  
6     you -- you can answer.  And again, instruct you  
7     not to provide any internal government  
8     deliberations apart from what's written here in  
9     this e-mail.

10                  THE WITNESS:  I reached out to State  
11     as part of the review process for Haiti TPS  
12     because of the expiration date coming up, and  
13     we needed to get the package to secretary Kelly  
14     to make a determination.

15                  BY MR. CONNELLY:

16                  Q.     Okay.  So is this -- this -- the  
17     e-mail that we're focused on, this was at your  
18     initiative as opposed to someone asking you to,  
19     you know, raise -- as -- as part of the e-mail  
20     says "refresh and repackage and resubmitting"?

21                  I'm just trying to get a sense of  
22     who the prime mover was on this.



1                   It's you?

2           A.       To the best of my recollection, this  
3   was, you know, our division. And I, you know,  
4   was charged with pulling together the package.  
5   And so this was something that I sent out  
6   knowing that I needed to get State's input as  
7   part of that package.

8           Q.       Okay.

9           A.       Yes.

10          Q.       And help me out in terms of you --  
11   you -- you've four people. Well, you -- you  
12   sent it to two, and you copied two.

13                   Chris and Susan, tell me who is  
14   Chris Ashe, A-S-H-E?

15          A.       He works within PRM at the  
16   Department of State. He is -- at this time at  
17   least was Brooks's supervisor. I don't know  
18   his specific title.

19          Q.       Okay. And Susan Keyack,  
20   K-E-Y-A-C-K?

21          A.       Yes. She also was in PRM and had  
22   worked on the TPS portfolio.

1 Q. All right. And then the people who  
2 are copied, are they within CIS?

3 Oh, no, no. Go ahead. Go ahead.

4 A. Yeah. Sure.

5 Q. Help me out. Yeah.

6 A. Brandon is. But Brook, no, was at  
7 PRM, at State.

8 Q. Yeah. Okay.

9 And -- and indeed, if we just  
10 then -- then if you move up the page, you see  
11 that Brook gets back to you, correct?

12 A. Yes.

13 Q. And then if we -- if we turn the  
14 page, there's another e-mail from Brook to you  
15 on February 6th at 9:17 a.m.?

16 A. Yes.

17 Q. And he references: "I heard back  
18 from the Haiti desk."

19 What's the Haiti desk?

20 MR. MARUTOLLO: Objection.

21 You can answer to the extent you're  
22 familiar with it through your work at -- at the

1 DHS.

2 THE WITNESS: I'm not entirely sure  
3 if he means the Haiti desk within PRM, which  
4 would be the people within PRM who focus on  
5 Haiti regionally. I think that's probably who  
6 he means.

7 But they also do outreach to post  
8 when they look into country conditions for TPS.  
9 So it could potentially be a reference to the  
10 Haiti post within the western hemispheres  
11 affairs.

12 BY MR. CONNELLY:

13 Q. And finally, the very -- the top  
14 memo, again from Brook to you, he -- he -- he  
15 mentions in his memo: "We assume DHS."

16 DHS would be Department of Homeland  
17 Security, correct?

18 A. Correct.

19 Q. Okay. And then it says: "Will  
20 formally ask state (DHS HQ)."

21 Help me out.

22 What does -- what -- what does that

1 phrase mean?

2 I'm -- I'm confused because State  
3 would suggest to me State Department. But then  
4 the paren under it is DHS HQ, which would seem  
5 to be homeland security.

6 MR. MARUTOLLO: Objection.

7 And it -- this calls for  
8 speculation. That -- this e-mail's not from  
9 Ms. Anderson.

10 But you can answer to the extent you  
11 know.

12 THE WITNESS: I think he was  
13 suggesting that it would be DHS HQ rather than  
14 USCIS who would reach out to State at that  
15 point to ask to reconsider the recommendation.

16 BY MR. CONNELLY:

17 Q. And is that how the process would  
18 ordinarily work for reconsideration.

19 Would -- would it ordinarily travel  
20 through DHS headquarters as opposed through --  
21 as opposed to through CIS?

22 MR. MARUTOLLO: Objection.

1           You can answer to the extent you  
2   know as a fact witness, not as a 30(b)(6)  
3   witness. You can answer.

4           THE WITNESS: This was a little bit  
5   of an unusual situation. Because there had  
6   been a recent recommendation at the end of the  
7   previous year. And so state -- it -- it  
8   essentially is an unusual situation where we  
9   would be asking if state wanted to update or  
10   reconsider a standing recommendation.

11           BY MR. CONNELLY:

12           Q.    Okay. And again, indeed, if we --  
13   we go back to the initial e-mail in the chain,  
14   there's a reference to I think -- yeah --  
15   Secretary Kerry's recommendation in the  
16   previous year, correct?

17           A.    Yes.

18           Q.    So let's -- to set the stage  
19   Secretary Kerry of course is -- in the previous  
20   year is the secretary of state in the Obama  
21   administration, and that's all going to change  
22   on January 20th or so with the new

1 administration coming in, right?

2 A. Right.

3 Q. Okay. Okay. And so, again, maybe  
4 you -- maybe you fully explained.

5 So -- but -- so -- so that I follow,  
6 you're saying that, okay, now we've got a new  
7 State Department, we've got a new secretary of  
8 state, and it's possible that they'll want to  
9 reconsider where the former secretary of state  
10 in a different administration left things?

11 MR. MARUTOLLO: Objection.

12 You can answer to the extent that  
13 characterization is accurate.

14 But you can answer.

15 THE WITNESS: Correct.

16 MR. CONNELLY: I'll give you next  
17 what I'm going to call KA-10A, for -- to  
18 maintain my -- our sequence.

19 (Deposition Exhibit KA-10A was  
20 marked for identification.)

21 THE WITNESS: Are you testing my  
22 eyes with this one?

1 BY MR. CONNELLY:

2 Q. Well, I'm giving you the -- I'm  
3 giving you the whole chain, although I -- I  
4 only care about the top e-mail to you from  
5 Samantha D-E-S-H-O-M-M-E-S.

6 But take your time to the extent  
7 that you need to put it in context.

8 A. Okay.

9 Q. Okay. How does Samantha pronounce  
10 her last name?

11 A. I think it's Deshommes.

12 Q. Deshommes? All right.

13 And who -- who is she?

14 A. She is chief of the regulatory  
15 coordination division in the office -- office  
16 of policy and strategy.

17 Q. Is she someone that you -- you  
18 ordinarily interact with?

19 A. Yes. Fairly frequently in -- in my  
20 role in policy and strategy, yes.

21 Q. All right. So we're now -- we've  
22 moved -- the last one -- document I think I

1 showed you was an -- an early -- earlier  
2 February. We're a couple of weeks deeper now  
3 in February. It's February 23rd of 2017.

4 And I'm going to ask you to  
5 translate a few of these acronyms in her e-mail  
6 to you.

7 She begins by -- well, she starts  
8 with "Yes, of course," and then moves on to say  
9 "We discussed this with OGC."

10 Who is OGC?

11 A. That is the -- I believe it to be  
12 the DHS office of general counsel.

13 Q. Okay. And who -- do you know who --  
14 or are you familiar with who the general  
15 counsel would be at that -- at this -- at this  
16 time?

17 A. I'm not sure who it was then, no.

18 Q. All right. She moves on to say:  
19 "I'm not sure how this crew is planning to  
20 approach TPS in general. But for whatever  
21 reason, they are signalling some concerns with  
22 this group of countries especially."



1                   When she references "this crew," who  
2                   is she referencing?

3                   MR. MARUTOLLO: Objection. Calls  
4                   for speculation.

5                   But to the extent you know who --  
6                   the individuals that she's referencing, you can  
7                   answer -- or -- or organization that she's  
8                   referencing.

9                   THE WITNESS: I'm not entirely sure.  
10                  I take that to mean people who were newly  
11                  coming in. It signals a transition. So people  
12                  who are new to the office or DHS.

13                  BY MR. CONNELLY:

14                  Q.       Okay. And your -- your best  
15                  understanding.

16                  A.       That's --

17                  Q.       I understand all you --

18                  A.       Yeah. I'm not --

19                  Q.       -- can do -- I mean --

20                  A.       -- entirely sure.

21                  Q.       -- is -- is your understanding of  
22                  what she was conveying.

1           Your understanding is she was  
2   talking about some -- some of the new people  
3   coming into DHS.

4           A.     That's my best understanding.

5           Q.     Yeah. All right.

6                   And then moving down just a few  
7   sentences, she says: "Then again, if we have a  
8   permanent OP&S chief by that time, what you're  
9   permitted to put forward may or may not change  
10   depending on her feelings about TPS."

11                  Do you see that?

12          A.     I do.

13          Q.     What is OP&S?

14          A.     That's the office of policy and  
15   strategy where we both worked.

16          Q.     And can you recall back -- you know,  
17   in -- in late February of 2017, was -- was  
18   the -- was there someone filling the position  
19   of chief of OP&S at that time? Was the  
20   position empty?

21                  I -- I -- because this is a  
22   reference to -- sounds like someone new coming

1 in to serve as the permanent chief.

2 A. I think that Larry Levine was acting  
3 as the chief of OP&S at this time.

4 Q. And help me out.

5 What role does the chief of OP&S  
6 have in determining what you are permitted to  
7 put forward?

8 A. The chief of OP&S is the head of the  
9 office of policy and strategy. So in talking  
10 before about the TPS package that moves  
11 forward, it comes out of the office of policy  
12 and strategy and then moves to the director's  
13 office within USCIS.

14 So the OP&S chief traditionally has  
15 the final say on what package comes out of that  
16 office, OP&S, and moves forward to the  
17 director's office for review.

18 Q. And where was your input in that  
19 process?

20 Have you -- have you given your  
21 input and that -- and that -- and that moves up  
22 to the office of policy and strategy?

1                   MR. MARUTOLLO: Objection. Again,  
2     to the extent it calls for internal government  
3     deliberations, I'll instruct the witness not to  
4     answer. And -- and also objection to the  
5     grounds that the question was vague.

6                   But otherwise, you can answer the  
7     question.

8                   THE WITNESS: Just in terms of  
9     structure, there's the -- the chief of the  
10    office of policy and strategy. And within the  
11    office of policy and strategy, there are  
12    several divisions.

13                  So the international and  
14    humanitarian affairs division, within which I  
15    worked while I was there, directly reported to  
16    the chief of the office of policy and strategy.

17                  So whatever we worked up within our  
18    division as the initial draft would go, you  
19    know, through the chief of the office of policy  
20    and strategy for review.

21                  BY MR. CONNELLY:

22                  Q.     Was there ever a time, you know,

1 after February 23rd of 2017, when someone told  
2 you, as far as your part, as you've just  
3 explained, your part of the process, told you  
4 what to put forwarded or -- or move -- or move  
5 on, you know, to OP&S?

6 MR. MARUTOLLO: Objection.

7 I would direct the witness not to  
8 answer to the extent it calls for internal  
9 government deliberations, again under the  
10 deliberative process privilege. So I would  
11 instruct the witness not to answer that  
12 question as phrased.

13 BY MR. CONNELLY:

14 Q. In the past was -- was it usual or  
15 unusual for anyone to ever suggest to you what  
16 you should put forward?

17 MR. MARUTOLLO: Objection. Again,  
18 I'm going to direct the witness not to answer  
19 to the extent it calls for internal government  
20 deliberations, again under the deliberative  
21 process privilege.

22 And also I object on the grounds

1     that the question is vague.

2                 So I'd instruct the witness not to  
3     answer that question.

4                 BY MR. CONNELLY:

5             Q.     I -- I don't want -- as I've told  
6     you, you know, previously, I don't want  
7     anything you're deliberating or anyone is  
8     deliberating, you know, with you about.

9                 I just want to have -- I want to  
10    have an understanding simply of you as a  
11    government worker being involved in the process  
12    to make determinations on TPS status or their  
13    extension.

14                I -- I'm trying to find out how the  
15    process worked and whether the process remained  
16    in its usual place in 2017 or whether suddenly  
17    people were telling you what to do.

18                So I don't -- I don't want to hear  
19    about any -- any conversations that you're --  
20    and your lawyer won't let me -- you know, won't  
21    -- wouldn't want you to tell me about those  
22    conversations.

1 I'm simply trying to find out if  
2 historically, when you put things forward to  
3 the office of policy -- at OP -- OP&S is what,  
4 office of policy and -- tell me again?

5 A. Office of policy and strategy.

6 Q. And strategy. Yeah, yeah.

7 Prior to -- prior to 2017, did --  
8 did anyone suggest to you what you should put  
9 forward?

10 MR. MARUTOLLO: Objection. Again,  
11 I'm going to direct the witness not to answer  
12 the question as phrased. It calls for internal  
13 government deliberations, including suggestions  
14 or recommendations about what to put forward.  
15 And therefore, it's -- I think it's protected  
16 by the deliberative process privilege.

17 BY MR. CONNELLY:

18 Q. Prior to February of 2017, was there  
19 ever a time when you planned to put forward  
20 something but you didn't put it forward?

21 I don't want to know why. I don't  
22 care who you talked to. I just want you to

1 think back, all right, before the Trump  
2 administration when I was putting things  
3 forward, I -- I just want to know was there  
4 ever a time when there was something you  
5 planned to put forward but it didn't go  
6 forward?

7 MR. MARUTOLLO: Objection. Again, I  
8 would -- first, I would object on the ground  
9 of -- of vagueness. But I think that -- that  
10 -- that calls for internal government  
11 deliberations about predecision deliberations.  
12 I think it's protected by the deliberative  
13 process privilege.

14 To the extent the question is  
15 whether she drafted documents, she can answer  
16 that question. But I mean, as the question is  
17 phrased, I would instruct the witness not to --  
18 not to answer the question.

19 BY MR. CONNELLY:

20 Q. Are -- are you going to follow that  
21 instruction?

22 Because I don't want -- I don't want



1 anything other than the simple objective fact  
2 of whether, prior to February of 2017, was  
3 there ever a time when you were planning on  
4 putting something forward but you didn't put it  
5 forward?

6 I don't care why. I don't care what  
7 caused it. I just want to know that simple  
8 objective fact, which strikes me as no  
9 different than asking you time or temperature.

10 But -- so I want to know are you --  
11 are you -- are you not going to answer that  
12 question based upon your attorney's cautions?

13 MR. MARUTOLLO: Well, again, I would  
14 instruct the witness not to answer that  
15 question as phrased.

16 Again I would also object on grounds  
17 of vagueness in terms of what -- what that's  
18 even referring to.

19 But my understanding is, if it's  
20 related to anything as per the prior questions,  
21 I think that calls for internal government  
22 deliberations. And again, we would instruct

1 the witness not to answer under the  
2 deliberative process privilege.

3 BY MR. CONNELLY:

4 Q. Are you going to follow your  
5 attorney's advice?

6 A. I am.

7 Q. Okay. Was there ever a time after  
8 February 23rd of 2017 when there were things  
9 you wished to put forward or had planned to put  
10 forward but weren't permitted to do so?

11 MR. MARUTOLLO: Objection. Again,  
12 you know -- I won't waste time, but I'll  
13 repeat --

14 MR. CONNELLY: Yeah.

15 MR. MARUTOLLO: -- the same  
16 objection from a moment ago.

17 BY MR. CONNELLY:

18 Q. Okay. And again, will you follow --  
19 you'll follow your attorney's advice not to  
20 answer that question?

21 A. Yes.

22 Q. Do you recall whether, after

1 February 23rd of 2017, anything at all changed  
2 depending on -- I mean did you in any way  
3 change how you handled your job or  
4 responsibilities based upon the feelings of the  
5 permanent OP&S chief?

6 MR. MARUTOLLO: Objection. I think  
7 that's clearly deliberative. To the extent --  
8 and I'll -- I'll instruct the witness not --  
9 not to answer that question on the ground of  
10 deliberative process privilege.

11 BY MR. CONNELLY:

12 Q. Let me ask you.

13 You think that Larry Levine --  
14 Levine -- is that's how it's pronounced?

15 A. Yes.

16 Q. -- was the acting chief in February  
17 of 2017?

18 A. I think he was.

19 Q. Okay. Did -- did -- did a permanent  
20 chief replace Larry at some point?

21 A. Yes.

22 Q. Who was that and -- and when?

1           A.       It was Kathy Nuebel Kovarik. And  
2       I'm not entirely sure when she was designated  
3       the permanent chief.

4                   MR. CONNELLY: I'm going to show  
5       you KA-11.

6                   (Deposition Exhibit KA-11 was marked  
7       for identification.)

8                   BY MR. CONNELLY:

9           Q.       While you're -- while you're taking  
10       a look at the document, I'll represent to you  
11       this is an exhibit attached to our complaint,  
12       the lawsuit. And a lot of the information --  
13       well, a lot of what has been redacted is -- is  
14       largely, almost exclusive but not entirely,  
15       just names of people, just for privacy reasons.  
16       It -- it had nothing to do with our lawsuit.  
17       So we didn't want to publish their names. And  
18       so we -- we eliminated them.

19          A.       Okay.

20          Q.       Okay. If you'll go to the  
21       second-to-the-last page, which has, on the  
22       far-right bottom -- it's Page 16. Or in the

1 middle of the page, it has the number 4.

2 Are you with me on that?

3 A. Yes.

4 Q. Okay. And you'll see that there is  
5 a March 2nd, 2017 e-mail at 3:46 p.m.

6 Help me out a little bit with the  
7 acronyms.

8 EXSO, what is that?

9 A. That's the USCIS -- I guess it would  
10 be the executive secretary's office.

11 Q. And what role, if any, does the EXSO  
12 have in determinations of initial TPS status or  
13 extensions?

14 A. In this particular case, and  
15 generally, they would just distribute a  
16 document for review by various entities within  
17 USCIS.

18 Q. Prior to the decision being made?

19 A. Yes. They would provide the  
20 administrative function of circulating it to  
21 the right people who needed to review it.

22 Q. Okay. And under -- and -- and

1       there's a -- a reference, FO.

2                   Can you tell me what that is?

3           A.       Front office.

4           Q.       Meaning who or -- or where within  
5       the organization?

6           A.       The USCIS front office. So that  
7       would typically mean -- it would encompass  
8       usually both the director and deputy director  
9       and their offices.

10          Q.       Okay. And at this time, were you  
11       the deputy director?

12                   Or no, no.

13                  You're -- where -- where are you in  
14       the firmament in -- what's -- what's your --  
15       your -- you -- you were at this time a deputy  
16       chief?

17          A.       So at this time I was deputy --

18          Q.       Within your division.

19          A.       -- chief of the division.

20          Q.       Yeah.

21          A.       Yes.

22          Q.       Yeah.

1           A.     This is -- I was speaking about the  
2     director and deputy director of USCIS.

3           Q.     Yes. Okay. I got it. All right.

4                     Mostly I show you this document  
5     because, again, on the story line -- the --  
6     the -- the time line, you'll see a summary now  
7     in the middle of the page that would -- you  
8     help -- tell me if I'm right about this.

9                     But it would seem to suggest that  
10    USCIS has a recommendation memo that discusses  
11    Haiti, and it has a recommendation that the  
12    secretary extend the designation for another 18  
13    months.

14                    Have I fairly summarized --

15           A.     I see what you're --

16           Q.     -- what that says?

17           A.     -- talking about.

18           Q.     Yeah. Okay.

19                    Does -- does that comport with your  
20    recollection of what -- that there was a  
21    recommendation memo at this time, and that it  
22    was recommending an extension of 18 months?

1           A.     Yes.   That there -- this was a draft  
2   memo, yes.

3           Q.     Yeah.

4                   Were you involved in the draft memo?

5           A.     I was in --

6                   MR. MARUTOLLO:  Objection.

7                   You can answer.

8                   THE WITNESS:  I was involved in  
9   drafting the memo.

10                  BY MR. CONNELLY:

11           Q.     Okay.  And was it your -- and -- and  
12   the memo did recommend an extension for 18  
13   months?

14                  MR. MARUTOLLO:  Objection.  Again,  
15   to the extent it the calls for internal  
16   government deliberations, I would instruct the  
17   witness not to answer the question.

18                  So I don't think you should answer  
19   that question.

20                  BY MR. CONNELLY:

21           Q.     Do you -- do you remember whether  
22   your recommendation was to extend for 18



1 months?

2 MR. MARUTOLLO: Objection. Again,  
3 since this is a recommendation, I would  
4 instruct the witness not to answer under the  
5 deliberative process privilege.

6 MR. CONNELLY: We can stay on  
7 record. Although, if you want to go off  
8 record, Joe, that's okay.

9 But I'm simply asking what this lady  
10 is doing in her capacity in her -- in -- in  
11 doing her job. I'm not asking, you know, what  
12 anybody else suggested to her or what she  
13 talked about with anyone else. I -- I -- I  
14 just -- I fail to see how that narrow question  
15 entails, you know, a privilege that, by its  
16 definition, requires, you know, communications  
17 and -- with others.

18 MR. MARUTOLLO: I think the case law  
19 is very clear about recommendations and drafts  
20 in terms of being protected by the deliberative  
21 process privilege.

22 I think the question, as posed, is

1 about whether or not Ms. Anderson had a  
2 recommendation that was included or provided as  
3 part of this draft.

4 I think questions related to this  
5 document, you know, which -- the four corners  
6 of this document and -- and perhaps by Ms.  
7 Anderson explaining this doc -- this e-mail --  
8 this exhibit, Exhibit KA-11, are -- are fine.  
9 And, you know, we'll make objections, you know,  
10 not on deliberative process, on just explaining  
11 this document.

12 But at the same time, any questions  
13 about recommendations that are made, even by  
14 Ms. Anderson, would still fall under the  
15 deliberative process privilege.

16 BY MR. CONNELLY:

17 Q. But am I correct that -- that, as of  
18 early March of 2017, at least some people in  
19 USCIS, including yourself, thought that the TPS  
20 status for Haiti should be extended for 18  
21 months?

22 MR. MARUTOLLO: Again, I object.

1 Instruct the witness not to answer. Certainly  
2 that question calling not only about her own  
3 views but other people at USCIS, what they were  
4 thinking, calls for internal deliberations that  
5 are protected by the deliberative process  
6 privilege.

7 So I'd instruct the witness not to  
8 answer.

9 BY MR. CONNELLY:

10 Q. If you'll -- move along. I'm just  
11 going to -- I'm going to ask you about a bunch  
12 of acronyms now in this -- in this memo. So if  
13 you'll turn back to Page 14.

14 A. Okay.

15 Q. There's a reference to AD1?

16 A. Yes.

17 Q. What is -- what is that? Who is  
18 that?

19 A. That means the acting director of  
20 USCIS.

21 Q. Who was that at the time?

22 A. I believe it was James McCament.

1 Q. Could you spell that last name for  
2 me.

3 A. M-C-C-A-M-E-N-T.

4 Q. Do you recall how long he remained  
5 the acting director through 2017?

6 A. I am not sure when the permanent  
7 director Cissna was appointed.

8 Q. Okay. But at some point in 2017, a  
9 permanent director came in?

10 A. I believe it was 2017, yes.

11 Q. Yeah. Okay.

12 And -- and who was that?

13 A. Francis Cissna.

14 Q. Could you spell that last name?

15 A. C-I-S-S-N-A.

16 Q. Okay. A little higher on this -- on  
17 this page there's a reference to COS.

18 Tell me what that is.

19 A. Chief of staff.

20 Q. And who was that at the time?

21 A. I don't remember.

22 Q. Going back to Page 13, near the top

1       there is a reference to James.

2                   Is it safe to say that was probably  
3       James McCament, the acting director?

4                   MR. MARUTOLLO:   Objection.

5                   You can answer.

6                   THE WITNESS:   I believe that it  
7       would be, yes.

8                   BY MR. CONNELLY:

9           Q.       Okay.   And then in that same  
10       sentence, there's a reference to NAC.

11                   What's that?

12       A.       That stands for the Nebraska Avenue  
13       Complex.

14       Q.       Tell me about that a little bit.

15       A.       That's the DHS headquarters.

16       Q.       At the very top of the page, maybe  
17       the first time that I -- her name is on the  
18       documents that I've shown you, is a lady you --  
19       you mentioned a few minutes ago, Kathy Kovarik.

20                   Is that how it's pronounced?

21       A.       Yes.

22       Q.       Okay.   And --

1 A. Kathy Nuebel Kovarik.

2 Q. Kathy Nuebel Kovarik?

3 A. Kovarik, yeah.

4 Q. Okay. What's her position?

5 I think you told me, but I've  
6 forgotten.

7 A. Well, she's currently chief of the  
8 office of policy and strategy.

9 Q. Do you remember what her position  
10 was back in April of 2017?

11 A. I'm not entirely sure the date that  
12 she took on the role of chief of office and  
13 policy and strategy. But prior to that, she  
14 was on the transition team for USCIS. So she  
15 was either in that role on the transition  
16 team -- the beach head team they were called --  
17 or she had already at this point taken on her  
18 role as chief of the office and policy and  
19 strategy.

20 Q. To your best recollection, she  
21 joined CIS with the new administration?

22 A. Yes.

1 MR. CONNELLY: Okay. We'll go to  
2 KA-12.

3 (Deposition Exhibit KA-12 was marked  
4 for identification.)

5 THE WITNESS: Okay.

6 BY MR. CONNELLY:

7 Q. All right. You've helped me out  
8 with the acronyms in the -- in the of the first  
9 e-mails on March 22nd. So let's move up on  
10 that back page to the March 24th e-mail from  
11 Mark Boivin.

12 Is that how it's pronounced?

13 A. Boivin.

14 Q. Boivin.

15 What position does Mark have?

16 A. Mark works in the regulatory  
17 coordination division of the office of policy  
18 and strategy. It looks like it has his  
19 information at the bottom --

20 Q. Yeah.

21 A. -- of the e-mail.

22 Q. And he says: "Hi Katherine, I just

1 spoke to Sam."

2 Who was that?

3 A. That's Samantha Deshommes.

4 Q. And goes on to say: "When the memo  
5 is ready, I'll send it to SCOPS."

6 Tell me about SCOPS.

7 A. Service center operations. That's a  
8 directorate within USCIS.

9 Q. "And to OCC."

10 Who is that?

11 A. Office of chief counsel within  
12 USCIS.

13 Q. And I just want process here. I  
14 don't want conversations. I don't want  
15 deliberations.

16 The -- well, let -- let's -- hang  
17 onto that question for just one second.

18 In his second sentence -- or second  
19 paragraph he says: "I understand that this  
20 will now be an action/decision memo, and one of  
21 the options will be to terminate with a  
22 six-month orderly transition like we did for



1 West Africa."

2 And this is -- we're -- we're  
3 talking about Haiti, correct?

4 You picked that up from the context  
5 of the earlier e-mail?

6 A. Correct.

7 Q. Okay. So let me ask -- the last  
8 document that I showed you, which was in early  
9 March, I'm going to suggest that at least  
10 someone at CIS seemed to think there was going  
11 to be an 18-month extension.

12 This memo on March 24th talks about  
13 the possibility that there may be the decision  
14 to terminate with a six-month orderly  
15 transition.

16 Would- - would you agree with me  
17 that that is different than an 18-month  
18 extension?

19 MR. MARUTOLLO: Objection. Just  
20 to -- to the extent it assumes facts not in  
21 evidence or the extent it's vague. But -- and  
22 also asserting deliberative process privilege.

1           You can answer the question based on  
2   the -- the documents that the -- counsel has  
3   provided you.

4           THE WITNESS: I think Mark is  
5   stating that the memo will now be an options  
6   memo with options provided for the secretary.  
7   And one of those options would be to terminate.

8           BY MR. CONNELLY:

9           Q.    Were you involved in this -- in this  
10   action decision memo?

11           MR. MARUTOLLO: Objection.

12           You can answer.

13           THE WITNESS: I was involved in  
14   revising the memo, this action decision memo,  
15   yes.

16           BY MR. CONNELLY:

17           Q.    And when you say "the memo," are --  
18   are you referencing back to whatever had --  
19   whatever the previous memo was, which I'm  
20   suggesting, according to these internal  
21   documents, would seem -- would contained a  
22   suggestion for an 18-month extension?

1 MR. MARUTOLLO: Objection again to  
2 the extent that it assumes facts not in  
3 evidence. And also, under the deliberative  
4 process privilege, we would assert an  
5 objection.

6 But based on these documents, you  
7 can answer the question.

8 THE WITNESS: The memo we're talking  
9 about is the recommendation memo from the  
10 director of USCIS to the DHS secretary. It's  
11 the same memo.

12 BY MR. CONNELLY:

13 Q. Okay. Okay. And is this -- is  
14 this -- in this time frame, March 24th or  
15 thereabouts in 2017, is that the first time  
16 that you learned that one option that should be  
17 included in the memo was a decision to  
18 terminate with a six-month orderly transition?

19 I don't want to know who you talked  
20 to. I just want to know when you first learned  
21 that one of the things that you were going to  
22 have a hand in writing would include an option

1 to terminate.

2 MR. MARUTOLLO: Objection. Again,  
3 vague. But also I'd instruct the witness not  
4 to answer to the extent it the calls for  
5 internal government deliberations.

6 However, but based on these e-mails  
7 that are in front of the witness, you can  
8 answer the question with that limitation in  
9 mind.

10 THE WITNESS: I don't think that  
11 this was the first time I had understood that  
12 the memo would be revised, no.

13 BY MR. CONNELLY:

14 Q. When -- when did you first  
15 understand it?

16 And we're bracketing -- basically  
17 I'm bracketing with the documents that I've  
18 shown you, which, you know, the -- the previous  
19 document was in much earlier March, and now  
20 this document is -- or this e-mail is on  
21 March 24th.

22 MR. M: Objection.

1                   You know, you can understand the  
2     question.

3                   But I object on the grounds of  
4     vagueness.

5                   But you can answer the question.

6                   THE WITNESS: I'm sorry. I don't  
7     quite understand the question.

8                   BY MR. CONNELLY:

9           Q.     Because you said weren't quite sure  
10    when -- or you didn't know that this was the  
11    first time that you had, you know, learn about  
12    a possible option to terminate.

13                  I -- and I guess -- whatever my  
14    earlier question was, what's your recollection  
15    of when you did first learn about that as a  
16    possibility?

17                  MR. MARUTOLLO: Again, object to the  
18    extent it calls for internal government  
19    deliberations and to the extent it calls for  
20    any -- any -- relaying of any information about  
21    recommendations that were made.

22                  So I -- I'd limit your answer to

1     what is in the e-mail, what is in these -- in  
2     these exhibits before you.

3                 THE WITNESS: I guess I would just  
4     restate that I don't think that Mark's e-mail  
5     to me was the first time that I had heard that  
6     there was a request to revise the memo to  
7     include options.

8                 BY MR. CONNELLY:

9                 Q.     Was the first time that you heard it  
10    sometime earlier in March of 2017?

11                MR. MARUTOLLO: Objection. Same  
12    objection stated.

13                But again, with the objections in  
14    mind, that you can answer the question.

15                THE WITNESS: Yes. Yes.

16                BY MR. CONNELLY:

17                Q.     And then you're involved in the  
18    process of revising the memo. And take --  
19    taking you back up to Mark's first line when he  
20    says: "When the memo's ready, I'll send it to  
21    SCOPS and OCC."

22                Just tell me -- help me in the

1 process.

2 Is that -- is that ordinarily how  
3 the process works, regardless of whether we're  
4 talking about Haiti or any other country?

5 Once a memo of this type is  
6 generated, is -- is that -- is that the unusual  
7 path it takes?

8 MR. MARUTOLLO: Objection.

9 Again, you can answer to the extent  
10 you are aware in your capacity as a fact  
11 witness in this case but not as a 30(b)(6)  
12 witness.

13 But in terms of the timing, you can  
14 answer the question.

15 THE WITNESS: Yes. Generally the  
16 office of policy and strategy drafts the memo.  
17 And then other offices with equities in TPS  
18 receive it for review. So SCOPS and OCC are  
19 two of those offices.

20 BY MR. CONNELLY:

21 Q. Okay. Now, if you'll turn to the  
22 first page of the memo to the March 24th e-mail

1 from Brandon to you and Mark at 4:21 p.m. on  
2 March 24th.

3 Do you see that?

4 A. Yes.

5 Q. Let me -- let me take care of a  
6 couple of the acronyms.

7 Within his e-mail, he makes  
8 reference to SIs, that's S, numeral 1s, senior  
9 counselor.

10 Who was that?

11 A. I would --

12 MR. MARUTOLLO: Objection.

13 Again, to the extent you're aware.

14 THE WITNESS: I was going to say my  
15 understanding of that is that it would refer to  
16 Gene Hamilton.

17 BY MR. CONNELLY:

18 Q. Okay. And when did he take on that  
19 position?

20 A. I don't know when he started.

21 Q. Was he -- was he coming in fresh  
22 with the Trump administration, as opposed to



1 having been in CIS in -- at a prior time?

2 A. He began after the administration  
3 changed, yes.

4 Q. Okay. And who -- what -- the  
5 reference to S1, who is that?

6 A. That would refer to the secretary.

7 Q. Okay. Do you remember, at this  
8 time, is that the acting secretary that you  
9 referenced earlier?

10 Is it -- how is it pronounced Mc --  
11 Mc -- McCarrot?

12 Help me out.

13 A. That's pronounced McCament.

14 Q. Okay.

15 A. But this is talking about the  
16 secretary of the Department of Homeland  
17 Security, S1.

18 Q. So at the time that would have been  
19 Kelly?

20 A. Yes. I believe it was Secretary  
21 Kelly.

22 Q. Okay. And one more acronym on the

1 -- further up the page. On his March 28th  
2 e-mail, he -- he talks about a redraft up to  
3 the FO.

4 But I guess that's -- again, that's  
5 front office?

6 A. Correct. The USCIS front office.

7 Q. All right. Okay.

8 And so in this -- now going back to  
9 that lower memo on the first page, the  
10 March 24th 4:21 memo to you.

11 Am I correct that, in the second  
12 paragraph, he reiterates: "The word you got  
13 regarding refashioning the memo to provide  
14 options is right and quoting termination (with  
15 perhaps a few options, not just six months for  
16 orderly transition delayed effective date)."

17 Okay. I read that exactly; yes?

18 A. Yes.

19 Q. Okay. And so that's the context  
20 we're -- we're -- now we're talking about the  
21 refashioning the memo.

22 Then he says -- after that he says:

1 "Ultimately, we're (USCIS still going to assess  
2 that conditions continue to be met and  
3 extension is warranted (we hope). So think an  
4 extension FRN is the appropriate one to go up  
5 with the package."

6 What was your understanding when he  
7 references "we're," the contraction for "we  
8 are," and then (USCIS)?

9 Who is he referring to there, to --  
10 to your best understanding?

11 MR. MARUTOLLO: Objection.

12 Again, to the extent this calls for  
13 internal government deliberations, I would  
14 instruct you not to answer and if it calls for  
15 internal deliberations beyond the four corners  
16 of this document.

17 But you can explain your -- you can  
18 explain the document in the manner that the  
19 counsel has just asked.

20 THE WITNESS: I think that the first  
21 "we're" after "ultimately" is, as he's  
22 indicated in the parenthetical, he intends that

1 to mean USCIS corporately.

2 And in the second instance, after  
3 "warranted," I think that he means the "we" to  
4 be himself and me.

5 BY MR. CONNELLY:

6 Q. All right. And then he further  
7 says: "Also our thinking is we should try to  
8 avoid getting in the business of sending up a  
9 buffet of FRNs, even if we're including options  
10 in TPS decision memos going forward."

11 What was your understanding of the  
12 phrase "sending up a buffet of FRNs"?

13 MR. MARUTOLLO: Objection, again to  
14 the extent it calls for internal government  
15 deliberations.

16 But you can answer to the extent  
17 it's based on explaining this document.

18 Further objection though under the  
19 sense that this is -- calls for speculation, as  
20 you did not write this doc -- write this  
21 e-mail.

22 You -- you can answer with those

1 objections.

2 THE WITNESS: Typically the TPS  
3 package that I mentioned our office would pull  
4 together would include the recommendation memo  
5 as well as a draft federal register notice  
6 reflecting the recommendations that was in that  
7 memo so that they were both already drafted.

8 But if a decision memo went up to  
9 the secretary with several options, then you're  
10 faced with a situation of needing to draft an  
11 FRN to reflect each of those options.

12 So when he says "a buffet of FRNs,"  
13 he was hoping, I believe, that we would not  
14 need to draft several versions of an FRN to  
15 reflect all of the different options reflected  
16 in the -- in the memo.

17 BY MR. CONNELLY:

18 Q. Okay. Prior to this time, had you  
19 ever drafted, to use his phrase, a buffet of  
20 FRNs?

21 Or I'll just -- you know, define  
22 that as FRNs with several different options.

1 Had you done that previously?

2 MR. MARUTOLLO: Objection.

3 Again, to the extent it calls for  
4 internal government deliberations, I would  
5 instruct the witness not to answer under the  
6 deliberative process privilege with the  
7 limitation that you can answer whether or not  
8 you had drafted multiple FRNs.

9 THE WITNESS: I don't recall  
10 previously drafting multiple FRNs to accompany  
11 recommendation memo, no.

12 BY MR. CONNELLY:

13 Q. In this instance, did it turn out  
14 that you -- did it end up that there were, you  
15 know, multiple FRNs that were -- were -- were  
16 generated?

17 MR. MARUTOLLO: Again, object to the  
18 extent it calls for internal government  
19 deliberations. And I would instruct the  
20 witness not to answer under the deliberative  
21 process privilege.

22 And -- and here again, I think the

1 way that question's phrased, I would instruct  
2 the witness not to answer.

3 BY MR. CONNELLY:

4 Q. I don't want to know the content of  
5 any conversations or communications.

6 But did you -- did you have  
7 communications with senior counsellor Gene  
8 Hamilton regarding the decision to -- in May to  
9 extend and then ultimately to terminate Haiti's  
10 TPS status?

11 MR. MARUTOLLO: Again, I would  
12 object to the extent it calls for internal  
13 government deliberations and instruct the  
14 witness not to answer under the deliberative  
15 process privilege.

16 But I -- I would instruct the  
17 witness, if she can answer -- Ms. Anderson can  
18 answer, to the extent she had -- whether she  
19 had any communications with Mr. Hamilton  
20 related to the TPS determination that's being  
21 questioned now by counsel.

22 THE WITNESS: Yes. I believe that I

1 did have some communication with him.

2 BY MR. CONNELLY:

3 Q. Do you recall approximately how  
4 many?

5 MR. MARUTOLLO: Same objection.

6 But you can answer.

7 THE WITNESS: I don't know exactly.  
8 It would have been typically in the form of  
9 meetings.

10 BY MR. CONNELLY:

11 Q. Did you have any written  
12 communications from you to him or from him to  
13 you?

14 MR. MARUTOLLO: Again, the same  
15 objection.

16 But you -- you can answer whether or  
17 not you had any written communications with Mr.  
18 Hamilton on this issue.

19 THE WITNESS: I don't recall  
20 specifically.

21 BY MR. CONNELLY:

22 Q. The meetings that you attended with



1 Mr. Hamilton, were those one-on-one meetings,  
2 or were -- were those group meetings?

3 MR. MARUTOLLO: Objection.

4 You can answer.

5 Same -- same objection.

6 You can answer.

7 THE WITNESS: The meetings would  
8 have been group meetings.

9 BY MR. CONNELLY:

10 Q. And who would have been in  
11 attendance at those meetings?

12 MR. MARUTOLLO: Again, the same  
13 objection I've been asserting.

14 But you can answer the question.

15 THE WITNESS: It certainly would  
16 have varied. It wasn't the same group of  
17 people. But it would have been representatives  
18 from USCIS as well as DHS headquarters.

19 BY MR. CONNELLY:

20 Q. But to your best recollection,  
21 always confined to people within CIS?

22 A. I'm sorry. What do you mean?

1           Q.       What I'm looking for -- no -- no  
2       curve balls here.

3                   I'm not sure that the deliberative  
4       process applies. But we can -- you know,  
5       reasonable people can -- can disagree with  
6       that.

7                   But as -- as a lawyer, you're  
8       probably familiar with the more common concept  
9       of kind of attorney-client privilege, which is  
10      -- this is at least a cousin of.

11                  If you're just having a deliberative  
12      process within your own agency, you know, maybe  
13      there's, you know, an argument to be made. If  
14      there are outsiders at these meetings, I would  
15      suggest there's no privilege.

16                  And so I want to find out who was in  
17      attendance, whether -- whether it's strictly  
18      within CIS people who are make -- who are part  
19      of this decision making process or whether  
20      there are others in the room.

21                  MR. MARUTOLLO: Again, I would just  
22      object. I know there's not exactly a question

1 pending. But just object to the extent it's  
2 asking the witness to make any legal  
3 conclusions about whether a privilege applies.

4 But if -- if the question's just  
5 about who was in the room, you can -- subject  
6 to the earlier objections, you can answer that  
7 question, to the extent you know.

8 THE WITNESS: Certainly it would not  
9 have been limited to within USCIS. Gene  
10 Hamilton, in fact, was part of the secretary's  
11 office at the Department of Homeland Security.  
12 So --

13 MR. CONNELLY: Okay. I --

14 THE WITNESS: Definitely some of  
15 these --

16 MR. CONNELLY: I should have  
17 broadened it --

18 THE WITNESS: -- meetings, yeah --

19 MR. CONNELLY: Yeah. I'm --

20 THE WITNESS: -- would have included  
21 representatives from the Department of Homeland  
22 Security as well.

1 BY MR. CONNELLY:

2 Q. Yeah. Okay. A fair point. And --  
3 and -- and my -- my mistake in make -- in  
4 limiting it to just CIS. I should have said  
5 DHS.

6 To your best recollection, were all  
7 of your meetings with Mr. Hamilton exclusively  
8 attended by people within DHS?

9 MR. MARUTOLLO: Objection.

10 You can answer.

11 THE WITNESS: There could have been  
12 meeting that also included the Department of  
13 State.

14 BY MR. CONNELLY:

15 Q. Any -- anyone else beyond DHS and  
16 Department of State?

17 A. Not that I can recall, no.

18 MR. CONNELLY: All right. I'll show  
19 you KA-13.

20 (Deposition Exhibit KA-13 was marked  
21 for identification.)

22 THE WITNESS: Okay.

1 BY MR. CONNELLY:

2 Q. Let me tell you that the -- we're  
3 not going to find a -- you know, a date on this  
4 memo, I don't think, other than where it says  
5 "Start April 24th, 2017.

6 I'm going to represent -- in good  
7 faith I'll represent that I believe this may  
8 have been a part of Mr. Prelogar's Outlook file  
9 and that this was generated -- my best belief  
10 is it was generated in early April, probably on  
11 April 4th of 2018.

12 You don't have the accept that. I'm  
13 just giving you that by way of, you know,  
14 fairness in background in terms of my -- my  
15 understanding of where this fits into the  
16 chronology of events.

17 So let me ask you, in the middle of  
18 the -- of this file, the first bullet point  
19 says: "Haiti e-mail Kolner," K-o-l-n-e-r,  
20 "response."

21 Do you see that?

22 A. Yes.

1 Q. What -- what is -- what or who is  
2 Kolner?

3 A. I don't know.

4 Q. Okay. And the third bullet point,  
5 it says: "S1 Haiti memo."

6 S1, would you -- assuming that I'm  
7 right that this is in -- in the April time  
8 frame, would that be a reference to the  
9 Department of Homeland Security, Secretary  
10 Kelly?

11 A. I read it that way, yes.

12 Q. Okay. And after it: "(1) How many  
13 current Haitian TP folks were illegal pre-TPS  
14 designation?"

15 Do you see that?

16 A. Uh-huh.

17 Q. And then the next -- the next -- and  
18 I'll go ahead and read the next couple: "(2)  
19 Since designation, how many have committed  
20 crimes? (3) Since designation, how many are on  
21 public assistance? out of work?"

22 Is it -- is it your -- did you have

1 an understanding at the time that Secretary  
2 Kelly had a -- had a memo seeking the answers  
3 to those questions that are summarized in what  
4 I'm referring to as the Outlook file of Mr.  
5 Prelogar?

6 MR. MARUTOLLO: Objection. Again,  
7 to the extent this calls for internal  
8 government deliberations, I would instruct the  
9 witness not to answer under the deliberative  
10 process privilege.

11 The -- Ms. Anderson can answer to  
12 the extent -- she can explain the document but  
13 certainly not how others interpreted the doc --  
14 document or other recommendations that were  
15 made by other officials within DHS or -- or  
16 anyone else, for that matter.

17 So with those limitations in mind,  
18 you can answer the question.

19 THE WITNESS: My understanding of  
20 this bullet point is that this was an item on  
21 our list of work to-dos that reflected a memo  
22 including these items that we needed to draft

1 for the secretary.

2 BY MR. CONNELLY:

3 Q. Okay. So make sure I understand  
4 properly.

5 So the reference to Sa 80 memo,  
6 which I'll translate as Secretary Kelly 80  
7 memo, do I understand correctly you're saying  
8 that's shorthand for this is a memo that we  
9 were being asked to create and provided to  
10 Secretary Kelly?

11 MR. MARUTOLLO: Objection, again to  
12 the extent it calls for internal government  
13 deliberations.

14 But you can explain what this means  
15 in the context of this document on KA-13, your  
16 understanding of what it -- what this document  
17 means.

18 THE WITNESS: Yes. I believe that  
19 this was a memo that we needed to provide to  
20 the secretary.

21 BY MR. CONNELLY:

22 Q. And independent of -- I'm using this



1 to refresh your recollection.

2 Independent of what -- what's  
3 written in KA-13, do you have an independent  
4 recollection that, you know, sometime in the  
5 April time frame of 2017 you were asked to  
6 generate this type of memo?

7 MR. MARUTOLLO: Again, to the extent  
8 it calls for internal government deliberations,  
9 I'd instruct the witness not to answer under  
10 the deliberative process privilege.

11 So I -- I would instruct not to  
12 answer on that -- on that point.

13 MR. CONNELLY: Really?

14 MR. MARUTOLLO: It's about a  
15 recommendation. I mean it's not --

16 MR. CONNELLY: Well --

17 MR. MARUTOLLO: It's separate and  
18 apart from the documents. I mean I guess --

19 MR. CONNELLY: Okay. And maybe --  
20 maybe I was too verbose.

21 BY MR. CONNELLY:

22 Q. I don't -- I don't care about any

1 recommendations.

2 I just want to know if you were --  
3 you were asked to generate this memo.

4 MR. MARUTOLLO: Again, are we  
5 referring to this memo that's in KA-13 --

6 MR. CONNELLY: Yes.

7 MR. MARUTOLLO: -- or -- okay.

8 MR. CONNELLY: Yes. The -- the memo  
9 that -- my understanding from her testimony is  
10 a memo that was going to go up to Secretary  
11 Kelly regarding Haiti and try to answer the  
12 various questions that are posed in the bullet  
13 point.

14 MR. MARUTOLLO: To the -- and again,  
15 we'll reassert the deliberative process  
16 privilege to the extent question's whether you  
17 drafted a memo that went to Secretary Kelly  
18 related to TPS on -- at this time frame.

19 You can answer the question with  
20 that limitation.

21 THE WITNESS: Yes. We were asked to  
22 draft a memo reflecting the information in that

1 bullet point as one Haiti memo.

2 BY MR. CONNELLY:

3 Q. Okay. And who -- who was it that  
4 asked you to generate that memo?

5 MR. MARUTOLLO: And same objection.

6 But you can answer as to who made  
7 that request.

8 THE WITNESS: I don't remember  
9 specifically who gave us the request.

10 BY MR. CONNELLY:

11 Q. Okay. What -- what was your  
12 understanding of the -- of how the information  
13 regarding these questions about illegal preTPS  
14 designation Haitians and whether they had  
15 committed crimes, whether any Haitians were on  
16 public assistance or were out of work -- first  
17 of all, let me ask you.

18 Was it your understanding that all  
19 of those questions were -- were directed toward  
20 Haitians who were in the United States?

21 MR. MARUTOLLO: Again, objection on  
22 deliberative process grounds.

1 But you can answer the question.

2 THE WITNESS: I'm sorry. Can you  
3 repeat that.

4 BY MR. CONNELLY:

5 Q. Were all of the questions that --  
6 you know that were in Bullet Point 3 on -- on  
7 this KA-13, were those all questions focused on  
8 Haitians living in the United States?

9 MR. MARUTOLLO: Objection.

10 But you can answer.

11 THE WITNESS: I think questions 1  
12 through 3 are related to Haitian TPS  
13 beneficiaries. 4 is obviously talking about  
14 conditions in Haiti, not --

15 MR. CONNELLY: Right.

16 THE WITNESS: Yeah.

17 MR. CONNELLY: Right. No. That's  
18 why I restricted it to the first 3.

19 THE WITNESS: Okay.

20 BY MR. CONNELLY:

21 Q. Okay. And when you say "TPS  
22 beneficiaries," you mean Haitians who have the

1 benefit of the TPS designation and are living  
2 in the United States?

3 A. I --

4 MR. MARUTOLLO: Objection.

5 You can answer.

6 THE WITNESS: I caveat the living in  
7 the United States part because some people  
8 could be Haitian TPS beneficiaries and not  
9 currently present in the United States, but  
10 they could still technically hold the status.

11 BY MR. CONNELLY:

12 Q. Okay. Well, let's -- let me try it  
13 this way.

14 But -- but certainly Haitians who  
15 were not in Haiti, who were outside of Haiti.

16 MR. MARUTOLLO: Objection.

17 You can answer, to the extent you  
18 know.

19 THE WITNESS: Not necessarily.

20 MR. CONNELLY: Oh, I could --

21 THE WITNESS: A Haitian --

22 MR. CONNELLY: Sure.

1 THE WITNESS: -- TPS beneficiary  
2 could be --

3 MR. CONNELLY: He could decide to go  
4 --

5 THE WITNESS: -- located in Haiti --

6 BY MR. CONNELLY:

7 Q. Yeah. His wife is on the island,  
8 and he decides, I don't care; I'm going back.  
9 Yeah. Okay.

10 But -- but -- but generally --

11 A. Haiti TPS beneficiaries.

12 Q. Yeah. Okay. And we -- I mean we're  
13 going to go through a slug of documents that I  
14 think, you know, proves this point beyond any  
15 debate. But I'm just -- this is -- I'm trying  
16 to take you through it, you know,  
17 chronologically. So I'm trying to under --  
18 have your understanding.

19 In as early-ish April of -- of 2017,  
20 you've been apparently asked to generate a memo  
21 and answer these questions.

22 And am I correct that you don't

1 recall -- you -- you can't specifically recall  
2 who it was who asked you to get these questions  
3 answered?

4 A. Correct.

5 Q. Okay. And had you been asked to --  
6 at any time, you know, prior to this Haiti  
7 situation in April of 2017, ever been -- ever  
8 generated a memo answering these kinds of  
9 questions?

10 MR. MARUTOLLO: Objection. Again, I  
11 think this goes beyond the document that's  
12 produced in which we're permitting questions  
13 on -- again, that question calls for internal  
14 government deliberations. And I instruct the  
15 witness not to answer that question under the  
16 deliberative process privilege.

17 MR. CONNELLY: Okay.

18 MR. MARUTOLLO: To the extent it  
19 relates to this particular document, you know,  
20 an -- an -- an explanation of this particular  
21 document, KA-13, she can certainly answer that.

22 But -- and given the productions

1     that have been made in this case, she can  
2     answer that. But otherwise, we would instruct  
3     the witness not to answer that question under  
4     the deliberative process privilege.

5                 BY MR. CONNELLY:

6             Q.     I -- I think there's a window in  
7     there for you to answer the question, unless  
8     I'm wrong. But your -- or no.

9                 MR. MARUTOLLO: I disagree. Yeah.

10                MR. CONNELLY: Okay. No, no.  
11     That's fine. I'm not -- I'm not trying to  
12     sneak one by you. Let me -- I'll -- I'll  
13     change the question.

14                BY MR. CONNELLY:

15             Q.     Is this the first time, to your best  
16     recollection, that you had been asked to  
17     generate a memo answering these questions?

18                MR. MARUTOLLO: Again, I would -- I  
19     would raise the same objection and direct you  
20     not to answer. That -- that's a  
21     deliberative -- the questions themselves are  
22     deliberative.



1           And again, under the deliberative  
2   process privilege, we instruct the witness not  
3   to answer that question.

4           BY MR. CONNELLY:

5           Q.    Had you ever generated a memo  
6   answering these types of questions prior to  
7   April of 2017?

8           I don't -- I don't care who asked  
9   you to do it. I don't care why you did it. I  
10   just want to know whether you ever had a memo  
11   answering these questions before.

12           MR. MARUTOLLO: Again, make the same  
13   objection. The questions themselves are  
14   deliberative. So if the question posed by  
15   counsel is whether or not a memo was created  
16   about these particular questions prior to, you  
17   know, certain date, the date on this -- on this  
18   exhibit, I'd instruct the witness not to answer  
19   the question under the deliberative process  
20   privilege.

21           BY MR. CONNELLY:

22           Q.    Did had ever tried to answer any of

1 the questions posed in 1 through 3 on this memo  
2 other than on this occasion?

3 MR. MARUTOLLO: Again, same  
4 objection.

5 Direct the witness not to answer.

6 BY MR. CONNELLY:

7 Q. Why don't you move ahead a little  
8 bit. We're -- we'll keep the documents rolling  
9 in date order.

10 But ultimately did you generate a  
11 memo or be -- were you a part of a process in  
12 generating a memo?

13 MR. MARUTOLLO: Objection.

14 You can answer.

15 THE WITNESS: Yes. I believe we  
16 did.

17 BY MR. CONNELLY:

18 Q. Were you -- was that a group  
19 authorship, or -- or were you the author of the  
20 memo?

21 A. I think that Brandon and I probably  
22 drafted the initial draft. But of course

1 various people had input into it after that.

2 Q. And did -- was the memo finalized  
3 and -- and moved up the ladder?

4 MR. MARUTOLLO: Objection.

5 You can answer.

6 THE WITNESS: I believe that a memo  
7 along these lines was, yes.

8 BY MR. CONNELLY:

9 Q. Do you know whether the -- let's  
10 assume that -- I mean let's assume that these  
11 questions were -- are answered or factual  
12 information could be gathered on these  
13 questions.

14 Do -- do any of these questions  
15 relate to current conditions in Haiti in April  
16 of 2017?

17 MR. MARUTOLLO: Objection. Again,  
18 assumes facts not in evidence and is vague.  
19 And I think may even call for a legal  
20 conclusion. But -- and also that the witness  
21 is not a- - an expert, is -- and is a fact  
22 witness.

1                   With those limitations in mind, you  
2     can answer the question.

3                   THE WITNESS: I think that No. 4  
4     relates to current conditions in Haiti.

5                   BY MR. CONNELLY:

6           Q.     Okay. But not any -- but not the --  
7     the first three?

8           A.     No.

9           Q.     I'm sorry.

10                  To make -- to make a clean record,  
11     it is correct that none of the questions posed  
12     in 1, 2 and 3 in the center of this document  
13     relate to current conditions in Haiti, correct?

14                  MR. MARUTOLLO: Objection.

15                  MR. CONNELLY: I have my answer  
16     already. But I just want to clarify. I mean  
17     the no's could be ambiguous. I just want to --  
18     I just want to get this down hard and for  
19     certain.

20                  MR. MARUTOLLO: Again, I -- I would  
21     still object. I mean I still think it calls  
22     for legal conclusion and assumes facts that are

1 not in evidence.

2 But you can answer the question.

3 THE WITNESS: I do not understand  
4 question 1, 2 or 3 to relate to current  
5 conditions in Haiti.

6 MR. CONNELLY: Okay. I might be  
7 able to -- oh, we'll go to KA-14. That might  
8 help your recollection.

9 (Deposition Exhibit KA-14 was marked  
10 for identification.)

11 BY MR. CONNELLY:

12 Q. I'm only interested in the first  
13 memo at 9:19 on April 7th. But I'll wait for  
14 you to feel comfortable in reviewing it.

15 A. Okay.

16 Q. So directing you to the memo from  
17 Kathy Kovarik on April 7th at 9:19 a.m., would  
18 you remind me again, your best recollection,  
19 what was her position at that time?

20 A. Looking at the e-mail above it from

21 --

22 Q. Uh-huh.

1           A.       -- Brandon on April 7th, it looks  
2     like he says: "Our new OP&S chief, Kathy  
3     Nuebel Kovarik." So I take that to be --

4           Q.       Okay.

5           A.       -- that, as of April 7, she was  
6     officially the --

7           Q.       Okay.

8           A.       -- OP&S chief.

9           Q.       Thank you. Okay.

10                   And then she -- I mean it does --  
11     obviously it's relatively self-explanatory.

12                   But for the record, she says -- I'll  
13     skip a -- a little bit of the prefatory --  
14     first few sentences. But it says: "Here's  
15     what I need: 'Details on how many TPS holders  
16     are on public and private relief.'"

17                   Next bullet point: "Any demographic  
18     data, including how many with TPS are  
19     school-aged kids."

20                   The next point: "How many have been  
21     convicted of crimes of any kind (any  
22     criminal/detainer statute confined)."

1                   Next: "How often they travel back  
2   and forth to the island."

3                   And then the final bullet point is:  
4   "Remittances data."

5                   Does that help you in -- in you  
6   recollecting who it was who asked you to try to  
7   gather this type of information?

8                   MR. MARUTOLLO: Objection. And to  
9   the extent that the e-mail speaks for itself.

10                  But -- and while not explaining any  
11   internal government communications, you can  
12   answer that question.

13                  THE WITNESS: I recall Kathy sending  
14   this e-mail requesting this information. I  
15   don't necessarily know that that means she  
16   requested the information referenced in KA-13  
17   that we were talking about earlier.

18                  BY MR. CONNELLY:

19                  Q.    Okay. Do you have any -- a  
20   recollection of ever having anyone else request  
21   this information from you beyond Kathy?

22                  MR. MARUTOLLO: Objection.

1                   And just for clarification, you're  
2   referring to the information that's in KA-14?

3                   MR. CONNELLY:   Yes.

4                   MR. MARUTOLLO:   The memo?

5                   MR. CONNELLY:   Yes.   KA-14.   Right.

6                   MR. MARUTOLLO:   And again, without  
7   disclosing any internal government  
8   communications, and limited to explaining this  
9   e-mail, you can answer the question.

10                  THE WITNESS:   I mean this was the  
11   direct request we got to look into this  
12   information.

13                  BY MR. CONNELLY:

14                  Q.    Okay.   Did -- had you ever pulled  
15   this kind of information on any of the matters  
16   that you handled prior to April 7th of 2017?

17                  MR. MARUTOLLO:   Again, I would  
18   object to the extent it calls for internal  
19   government deliberations.   And I -- I would  
20   instruct the witness not to answer that  
21   question.

22                  BY MR. CONNELLY:



1 Q. Could you tell me the reference to  
2 remittances, R-E-M-I-T-T-A-N-C-E-S, data, the  
3 last of the bullet points, what is that?

4 A. I understand that to mean  
5 information related to the money sent from  
6 usually Haitians living in the United States  
7 back to Haiti.

8 Q. Lastly on this document, at the very  
9 top of the page, there's an e-mail from  
10 Alexander King.

11 You see that?

12 A. Yes.

13 Q. I -- I don't recall -- we haven't  
14 talked about him, at least, previously.

15 Who is Mr. King?

16 A. He is in SCOPS, so service center  
17 operations. And I believe at the time he was  
18 heading the division of SCOPS overseeing TPS  
19 adjudications.

20 MR. CONNELLY: Next I'm going to  
21 give you KA-15, which is a enormously --  
22 about -- it's on the holder -- but a fairly

1     lengthy e-mail chain, of which I don't have  
2     much interest in -- in most of the e-mail. But  
3     you'll want to obviously look it all over for  
4     context.

5                     (Deposition Exhibit KA-15 was marked  
6     for identification.)

7                     THE WITNESS: Okay.

8                     MR. CONNELLY: Okay. Why don't --  
9     we'll do this document and I think the next  
10    one. And then we'll -- if you'd like, we can  
11    break for lunch.

12                    MR. MARUTOLLO: Sure.

13                    MR. CONNELLY: I didn't realize, you  
14    know, that it was past the usual lunch hour.

15                    BY MR. CONNELLY:

16             Q.     All right. So this is all on a --  
17    on a long e-mail chain. And that's how it  
18    was -- it was provided to me.

19                    And to your best -- I mean I haven't  
20    reviewed it. This was all a back-and-forth  
21    within your agency, you know, as a -- as an  
22    ordinary part of the business of the agency.

1           This is all just -- this is all a  
2   business document, in other words, correct?

3           A.     Yes.

4           MR. MARUTOLLO:   Objection.

5           THE WITNESS:   Sorry.

6           MR. MARUTOLLO:   You can answer.

7           BY MR. CONNELLY:

8           Q.     Okay.   Now -- well, now -- and then,  
9   if you go to the page that has the Bates No.  
10   3287.   It's -- it's the -- it's the second page  
11   of the document.   There's an e-mail from an  
12   April Padilla, P-A-D-I-L-L-A, on April 25th,  
13   2017 at 2:21 p.m. to you and others.

14                  Do you see that?

15           A.     I do.

16           Q.     Okay.   And then Padilllla's e-mail is  
17   -- it give -- it gives us that her position is  
18   unit chief fraud detection security and fraud  
19   office, service center headquarters, USCIS  
20   headquarters, correct?

21           A.     Yes.

22           Q.     Okay.   And I hadn't seen her name

1 previously.

2 But so I -- my question to you is do  
3 you have -- I mean beyond this particular  
4 exchange, do you have -- ordinarily have  
5 communication and exchanges with April  
6 Padillla?

7 MR. MARUTOLLO: Objection.

8 You can answer.

9 THE WITNESS: She's not regularly  
10 involved in the TPS process.

11 BY MR. CONNELLY:

12 Q. Okay. And at the -- the very -- the  
13 top e-mail, which is the one that I was most  
14 curious about, which is -- which is from Kathy  
15 Kovarik to you and many others, she notes --  
16 and I'll quote her -- the sentence: "I do want  
17 to alert you, however, that the secretary" --

18 You take that to be a reference to  
19 Secretary Kelly?

20 A. I do.

21 Q. Okay -- "is going to be sending a  
22 request to us to be more responsive. I know

1     that some of it is not captured, but we'll have  
2     to figure out a way to squeeze more data out of  
3     our systems."

4             What -- what was your understanding  
5     of that observation?

6             MR. MARUTOLLO:  Objection.

7             To the extent it calls for internal  
8     government deliberations, I instruct you not to  
9     answer the question under the deliberative  
10    process privilege.  Also calls for speculation.

11            I mean you can answer the question  
12    to the extent it's limited to what's in this  
13    e-mail.  But apart from that and the four  
14    corners of this document, I instruct you not to  
15    answer the question.

16            THE WITNESS:  My interpretation of  
17    that sentence is that Kathy was reporting that  
18    the secretary was not satisfied with the  
19    information that we had been able to gather in  
20    response to those requests, so we would have  
21    to, as she says, figure out a way to squeeze  
22    more data out of our systems.

1 BY MR. CONNELLY:

2 Q. I -- I take it that -- I mean you  
3 can only speak for itself.

4 But you had done, I assume, your  
5 level best to try to find responsive data  
6 already?

7 When -- when she sends this e-mail  
8 to you, you had already been about -- about the  
9 process and had been trying to gather data,  
10 correct?

11 A. Yes.

12 Q. Okay. And was there any data, you  
13 know, that you had held back or not provided  
14 that you had been able to locate?

15 MR. MARUTOLLO: Objection. Again,  
16 to the extent it -- it calls for internal  
17 government deliberations, I would instruct the  
18 witness not to answer with respect to any draft  
19 information that you located and did not  
20 provide.

21 So I'd instruct the witness not to  
22 answer with that objection in mind.

1 But otherwise you can answer.

2 THE WITNESS: No. I believe we  
3 provided the -- the best and most accurate  
4 answers that we could come up with based on the  
5 information available.

6 BY MR. CONNELLY:

7 Q. Did you -- did you try to take any  
8 further steps based on Kathy's request?

9 Did -- did you -- I mean to use her  
10 phrasing, did you then -- okay. Your superior  
11 is asking you to do something.

12 Did you try to squeeze more data out  
13 of the system based on her request?

14 MR. MARUTOLLO: I'm going to direct  
15 the witness not to answer that question. That  
16 calls for internal government deliberations  
17 about information that may or may not have been  
18 done. It goes beyond the four corners of this  
19 document that we produced.

20 So I'd instruct the witness not to  
21 answer that question under the deliberative  
22 process privilege.

1 BY MR. CONNELLY:

2 Q. Did you provide -- after April 27th  
3 at 10 -- 10:08 a.m., did you provide any more  
4 data beyond what you had already provided up to  
5 that point?

6 MR. MARUTOLLO: Objection.

7 But you can answer.

8 THE WITNESS: I don't recall, off  
9 the top of my head, what we did following this  
10 e-mail, no.

11 BY MR. CONNELLY:

12 Q. Or if you're -- again, I -- only  
13 your best recollection.

14 Do you have a -- do you have -- is  
15 your best recollection that you did? you might  
16 have? you didn't?

17 What -- what's your best  
18 recollection as you sit here?

19 MR. MARUTOLLO: Objection. Vague.

20 And it -- the witness asked and answered the  
21 question.

22 You can answer it again.



1 THE WITNESS: I just don't recall  
2 our next step.

3 MR. CONNELLY: Lastly, before we  
4 take a break, let's go to KA-16.

5 (Deposition Exhibit KA-16 was marked  
6 for identification.)

7 THE WITNESS: Okay.

8 BY MR. CONNELLY:

9 Q. Okay. Who is Leroy Potts,  
10 P-O-T-T-S?

11 A. He is chief of the research unit  
12 within RAIO.

13 Q. Do you have a -- how longstanding a  
14 relationship do you have with him?

15 A. I --

16 MR. MARUTOLLO: Objection.

17 You can answer.

18 THE WITNESS: Sure.

19 I think I've known him since about  
20 when I started at headquarters in Washington,  
21 D.C.

22 BY MR. CONNELLY:

1           Q.       Okay. Is it a fair characterization  
2       that he's asking you, in his memo to you -- or  
3       his e-mail to you, he'd like to know a little  
4       bit more about, you know, what's being decided  
5       on the Haiti TPS situation and -- and the  
6       decision perhaps that the TPS status might be  
7       terminated?

8                   MR. MARUTOLLO: Objection. Again,  
9       to the extent it calls for internal government  
10      deliberations, the -- the witness, Ms.  
11      Anderson, can explain the document. And the  
12      document certainly speaks for itself.

13                  But I'd instruct her not to provide  
14      any testimony about how Mr. Potts or what --  
15      what he is saying or -- or how he's  
16      interpreting any TPS designation.

17                  So again, under the deliberative  
18      process and with that objection in mind, you  
19      can answer the question.

20                  THE WITNESS: I took Roy's message  
21      to mean that he was asking me for more insight  
22      and background on what was going on with the

1     TPS decision making process that I was privy to  
2     that he wasn't.

3                     BY MR. CONNELLY:

4             Q.     Okay. And then perhaps, as you  
5     might expect, when we go to your -- your answer  
6     to Mr. Potts, you say: "The short answer is  
7     that the decision was a political one by the  
8     FO" --

9                     FO being front office?

10            A.     The USCIS front office.

11            Q.     Yeah -- "and SI's advisors."

12                     That would be Secretary Kelly's  
13     advisors?

14            A.     Yes.

15            Q.     Okay. And what did you mean by your  
16     conclusion that the decision was a political  
17     one?

18                     MR. MARUTOLLO: Objection. Again,  
19     first I -- that although it is an accurate  
20     recitation of that phrase within a larger  
21     sentence in a larger paragraph, I'd object on  
22     vagueness grounds.

1 But also, again, to the extent it  
2 calls for internal government deliberations, I  
3 would instruct the witness not to answer under  
4 the deliberative process privilege.

5 You can explain the document but not  
6 any interpretation of what the front office or  
7 what the secretary or the secretary's advisors  
8 were doing.

9 MR. CONNELLY: I think that's way  
10 too broad. But you've said -- you know, as  
11 long as she restrict herself from those --  
12 those qualifiers, she can answer.

13 So let's -- let's see what the  
14 answer is.

15 THE WITNESS: I think I meant to  
16 indicate to Roy that the -- the decision was  
17 made by political leadership.

18 BY MR. CONNELLY:

19 Q. As opposed to what?

20 The -- ordinarily decisions --  
21 that -- that wouldn't be true for prior  
22 decisions on -- on designations and

1 terminations?

2 MR. MARUTOLLO: Objection. Again,  
3 to the -- first, to the extent that it goes  
4 beyond this witness's knowledge of prior  
5 designations; and second, based on the fact  
6 that she's a fact witness, not an expert  
7 witness; and third, to the extent it calls for  
8 internal government deliberations about how  
9 prior or other decisions were made relating to  
10 TPS, I'd instruct the witness not to answer.

11 But with those limitations in mind,  
12 you can -- I would instruct you could answer.

13 THE WITNESS: My intention was to  
14 indicate that it was made by political  
15 leadership, in line, I would add, with  
16 political priorities.

17 BY MR. CONNELLY:

18 Q. Okay. But I think --

19 MR. CONNELLY: Could you read back  
20 -- read back my earlier question before the  
21 objection, my previous question.

22 (Discussion off the stenographic

1 record.)

2 (The record was read as requested.)

3 MR. CONNELLY: And I'm going to --  
4 I'm going to have the record reflect you nodded  
5 in agreement, but there was an objection. So I  
6 just want to now get the record, you know,  
7 clarified.

8 BY MR. CONNELLY:

9 Q. Do you -- do you need that -- would  
10 you like to hear that question again, or was it  
11 -- I mean do you want me to rework the  
12 question?

13 MR. MARUTOLLO: And I would just  
14 object again. I mean to the extent there was  
15 -- I didn't see if there were nodding or not.

16 But I would instruct the witness  
17 only to answer with my limitation in mind.

18 But if you want to ask the question  
19 again or have it based off of -- of the  
20 rereading that the -- the court reporter just  
21 provided, that's fine too.

22 THE WITNESS: I need the question

1 again, please.

2 MR. CONNELLY: Okay. Do you want --  
3 do you want me -- should we just have her  
4 reread it?

5 THE WITNESS: That's fine.

6 MR. CONNELLY: Okay.

7 (The record was read as requested.)

8 MR. MARUTOLLO: Again, with the same  
9 objection in mind, you -- that I spoke of a  
10 moment ago, you can answer that question.

11 THE WITNESS: TPS decisions are  
12 normally made by political leadership.

13 BY MR. CONNELLY:

14 Q. Are normally made by political  
15 leadership.

16 But are the decisions themselves  
17 normally political decisions?

18 MR. MARUTOLLO: Objection. Asked  
19 and answered already.

20 But you can answer it again.

21 THE WITNESS: My sense is that TPS  
22 decisions are not always as impacted by

1 political priorities as this one was.

2 MR. CONNELLY: Okay. We can break  
3 for lunch.

4 MR. MARUTOLLO: We agree.

5 MR. CONNELLY: Whatever you guys may  
6 need.

7 MR. MARUTOLLO: Okay.

8 THE VIDEOGRAPHER: We're going off  
9 the record.

10 The time is 13:22.

11 (A short recess was taken.)

12 THE VIDEOGRAPHER: Going back on the  
13 record.

14 The time is 14:12.

15 MR. CONNELLY: This is going to be  
16 KA-18.

17 I used the lunch break to winnow  
18 down some things. So there's going to be some  
19 gaps in the numbering.

20 MR. MARUTOLLO: Sure. That's fine.

21 MR. CONNELLY: So you understand it.  
22 Yeah.



1 (Deposition Exhibit KA-18 was marked  
2 for identification.)

3 MR. MARUTOLLO: Thank you.

4 THE WITNESS: Thank you.

5 BY MR. CONNELLY:

6 Q. Okay?

7 A. Okay.

8 Q. All right. And this appears -- it's  
9 an e-mail chain. And it appears that the  
10 New York Times had an editorial on the Haiti  
11 TPS circumstance apparently on -- on or about  
12 April 30th of 2017, correct?

13 A. Yes.

14 Q. And if you look in the -- in the  
15 New York Times article, which is included, it  
16 references that there's apparently a -- some  
17 type of a writing or a memo from the acting  
18 head of CIS, James McCament, M-c-C-A-M-E-N-T,  
19 to the then secretary of the Department of  
20 Homeland Security, Mr. Kelly, correct?

21 A. Where are you looking?

22 Q. Right in the -- I'm sorry. Right in

1 the middle of the New York Times article under  
2 the photo.

3 A. The paragraph that begins "That is a  
4 reasonable conclusion"?

5 Q. Correct.

6 A. Oh.

7 Q. Yeah?

8 A. Let me look at that.

9 I see. Okay.

10 Q. And then it -- and later -- then it  
11 -- there's a quote, presumably from the memo.  
12 And then there -- the next paragraph it -- it  
13 refers to this writing as Mr. McCament's memo.  
14 Okay?

15 A. Two paragraphs down?

16 Q. Correct.

17 A. Okay.

18 Q. Okay. Did you -- are -- are you  
19 familiar with the McCament memo to then  
20 Secretary Kelly?

21 MR. MARUTOLLO: Objection. Again,  
22 to the extent it calls for internal government

1 deliberations, I'd ask you not to answer under  
2 the deliberative process privilege.

3 But you can answer whether or -- or  
4 not you are aware that there was such a memo.

5 THE WITNESS: I've aware that there  
6 was a memo.

7 BY MR. CONNELLY:

8 Q. Did you have any part in its  
9 drafting?

10 MR. MARUTOLLO: Same objection.

11 But you can answer.

12 THE WITNESS: I believe it's  
13 referencing the recommendation memo from the  
14 director of the USCIS to the secretary of  
15 Homeland Security that I did have a role in  
16 drafting in its initial phases.

17 BY MR. CONNELLY:

18 Q. As opposed to the final -- the final  
19 memo?

20 Did you have -- did you have a role  
21 at all in the -- in the finalized memo?

22 MR. MARUTOLLO: Again, objection.

1 To the extent it calls for internal government  
2 deliberations, I would instruct the wit -- Ms.  
3 Anderson not to answer under the deliberative  
4 process privilege.

5 To the extent you created any  
6 document in connection with this question, you  
7 can answer the question.

8 THE WITNESS: I worked to create the  
9 original document.

10 BY MR. CONNELLY:

11 Q. Okay. And I'm -- and I -- I'm just  
12 drawing a distinction. Maybe I'm making too  
13 much of you saying that you worked on, you  
14 know, the original draft.

15 It looks like the New York Times  
16 obtained a memo that actually went from  
17 McCament to Flynn. So that's no longer a  
18 draft. That's the McCament memo. Okay?

19 A. The memo that went from Mr. McCament  
20 to Secretary Kelly?

21 Q. Yes.

22 A. I have seen that memo.

1 Q. Yeah.

2 A. Yes.

3 Q. And was that memo different from  
4 your draft memo?

5 MR. MARUTOLLO: Objection.

6 Again, I'll direct you not to answer  
7 this question under the deliberative process  
8 privilege because it calls for internal  
9 government deliberations.

10 She can answer questions related to  
11 this e-mail and -- you know, and that's it.  
12 But otherwise we would object under  
13 deliberative process privilege and direct her  
14 not to answer.

15 MR. CONNELLY: Not to answer?

16 I -- you're probably going to come  
17 back here. I -- I hate to tell you that. But  
18 we're -- we -- we're, you know, obviously at  
19 loggerheads on a lot of things. And I suspect  
20 there's going to be a lot more. And only the  
21 judge is going to sort this out.

22 So there's -- there's nothing more

1 to be done. And you shouldn't answer over --  
2 you know if you're going to follow your  
3 attorney's objection.

4 MR. MARUTOLLO: I would note, as  
5 discussed previously with plaintiff's counsel,  
6 I mean we're willing and there's already been a  
7 letter an order. My understanding today that  
8 the judge is available to deal with any issues.

9 So we're not going to be producing  
10 Ms. Anderson again. We're happy to go to the  
11 Court, if necessary. But we're make --  
12 maintaining our objection, maintaining a  
13 record.

14 BY MR. CONNELLY:

15 Q. All right. And so see if I've got  
16 this right.

17 You have a recollection that you  
18 were involved in the drafting of a -- a memo  
19 that ultimately resulted in McCament sending a  
20 memo to Secretary Kelly.

21 A. Yes.

22 Q. Okay. And I'm trying to probe --

1 MR. MARUTOLLO: Excuse me for just  
2 one moment.

3 MR. CONNELLY: Sure.

4 MR. MARUTOLLO: Let me just go off  
5 the record for a minute --

6 MR. CONNELLY: Oh.

7 MR. MARUTOLLO: -- just to --

8 MR. CONNELLY: Sure.

9 THE VIDEOGRAPHER: Just one second.

10 MR. CONNELLY: Oh.

11 THE VIDEOGRAPHER: Going off the  
12 record.

13 (A short recess was taken.)

14 THE VIDEOGRAPHER: Going back on the  
15 record.

16 The time is 14:19.

17 BY MR. CONNELLY:

18 Q. And I take it you have in mind --  
19 you have in mind the -- the actual memo that  
20 went between McCament and Kelly?

21 MR. MARUTOLLO: Objection. It calls  
22 for speculation. And also we assert the

1 deliberative process privilege.

2 But you can answer the question.

3 THE WITNESS: What do you mean I  
4 have in mind?

5 BY MR. CONNELLY:

6 Q. Do you have a recollection of that  
7 memo that actually went from McCament to Kelly?

8 A. I've seen it, yes.

9 Q. Okay. Good.

10 Here's my question: I want you to,  
11 in your own mind, compare whatever draft you  
12 provided with that final memo that went and  
13 tell me whether, you know, in essential  
14 substance, the final memo was pretty much the  
15 same or different than your draft.

16 I don't want to know what anybody  
17 said to you. I don't want to know what you  
18 said to anyone else. I don't care how it came  
19 about.

20 I just want the comparison between  
21 two documents. And you tell me whether they're  
22 basically the same or if they're different.



1 MR. MARUTOLLO: Again, I would  
2 object. And I appreciate the distinction that  
3 counsel is drawing. But that still calls for  
4 internal government deliberations because it  
5 goes to the substance of draft materials.

6 And I'd instruct the witness,  
7 Ms. Anderson, not to answer that question.

8 BY MR. CONNELLY:

9 Q. If you go to the first page of this  
10 document, the -- it -- you have an e-mail to  
11 Mr. Prelogar on April 30th at 8:46 p.m.

12 Do you see that?

13 A. I do.

14 Q. You say: "I especially appreciated  
15 that they noted the memo."

16 And do I correctly understand that  
17 your -- your reference here to "the memo" is  
18 the -- is the memo in the New York Times  
19 between -- the final memo that was sent between  
20 Mr. McCament sent to -- from Mr. McCament to  
21 then Secretary Kelly?

22 A. That's the memo I'm referring to.

1           Q.       Okay. Okay. And you go on to say  
2       that: "The memo did cite a bunch of horrible  
3       conditions, but then somehow it reached the  
4       wrong conclusion."

5                   Now, to be -- let me be fair about  
6       this.

7                   It appears that you're saying you  
8       appreciated that at the New York Times noted  
9       that the memo cited a bunch of horrible  
10      conditions but then somehow reached the wrong  
11      conclusion.

12                  And if you go back to the New York  
13      Times article, you'll see that just above the  
14      bottom of Page 6081, the New York Times  
15      editorial says: "And yet it reached the wrong  
16      conclusion."

17                  Okay?

18                  MR. MARUTOLLO: Again, I would  
19      object on the grounds that I think it's a  
20      compound question. And also to the extent that  
21      the document speaks for itself. But -- and --  
22      and on the deliberative process grounds as

1 well.

2 But you can answer the question.

3 MR. CONNELLY: Yeah.

4 THE WITNESS: I see the statement in  
5 the article "and yet it reached the wrong  
6 conclusion."

7 MR. CONNELLY: Yeah. Okay.

8 THE WITNESS: But what is the  
9 question?

10 BY MR. CONNELLY:

11 Q. Well, actually --

12 A. Okay.

13 Q. Without going back to law school,  
14 this is one of those unusual times when this  
15 document really doesn't speak for itself. But  
16 -- and -- and -- and I don't want to blow one  
17 by you on what you had to say in your e-mail.

18 So here is -- here is the question:  
19 When you write and talk about the memo did cite  
20 a bunch of horrible conditions, would you agree  
21 that the memo does cite a bunch of horrible  
22 conditions?

1 MR. MARUTOLLO: Objection.

2 First, just for clarification, are  
3 you referring to the memo that's in the  
4 New York Times -- that's referenced in the  
5 New York Times article?

6 MR. CONNELLY: Yes. Yes. Yes.

7 MR. MARUTOLLO: You can answer that  
8 question, to the extent you know.

9 THE WITNESS: My statement that the  
10 -- the -- "they noted the memo did cite a bunch  
11 of horrible conditions" was referring primarily  
12 to this sentence in the article that says: "In  
13 fairness, Mr. McCament's memo does acknowledge  
14 many of the other afflictions," and then lists  
15 a bunch of negative conditions in Haiti.

16 BY MR. CONNELLY:

17 Q. Yeah.

18 And then -- but then you go on to  
19 say -- and it's a compound sentence, so I'll  
20 just, you know, shrink it too.

21 But you -- you essentially say the  
22 memo -- that the New York Times article says

1     that the memo somehow reached the wrong  
2     conclusion.

3                   Is that -- is that what you were try  
4     -- is that what you were trying to convey in  
5     your e-mail?

6                   MR. MARUTOLLO: Objection. Again, I  
7     think the e-mail speaks for itself.

8                   And to the extent this calls for  
9     internal government deliberations, I instruct  
10    you not to answer.

11                   But you can, you know, provide an  
12    explanation of what you wrote in your e-mail  
13    limited to this e-mail, this document.

14                   THE WITNESS: I was -- excuse me --  
15    highlighting that the New York Times article  
16    highlighted the fact that McCament's memo had,  
17    you know, cited all of these conditions that I  
18    just referred to and then noted in the  
19    following sentence "and yet it reached the  
20    wrong conclusion."

21                   BY MR. CONNELLY:

22           Q.     Yeah. The memo.

1           So my -- my -- my simple question to  
2   you -- and again, I wanted to be completely  
3   transparent about this. I didn't want you to,  
4   you know, not appreciate, you know, what was in  
5   the New York article.

6           When you referenced that the memo  
7   somehow reached the wrong conclusion, were you  
8   referencing that's what the New York Times  
9   concluded, or was that your own conclusion,  
10   that -- that the memo reached the wrong  
11   conclusion?

12           MR. MARUTOLLO: Objection.

13           Again, to the extent that calls for  
14   an internal government deliberation, in turn --  
15   including your own interpretation of the memo,  
16   I would instruct you not to answer. But  
17   otherwise, you can answer the question.

18           THE WITNESS: My e-mail is noting  
19   that the New York Times stated that the memo  
20   reached the wrong conclusion. I was stating  
21   that I appreciated the statement by the  
22   New York Times.

1 MR. CONNELLY: Okay. Let's now go  
2 to 20 -- KA-21.

3 (Deposition Exhibit KA-21 was marked  
4 for identification.)

5 BY MR. CONNELLY:

6 Q. This is a relatively long e-mail  
7 chain. I'm only going to be asking you  
8 questions about the final two memos which are  
9 contained on the first page of this long chain.

10 A. Okay.

11 Q. Okay. On the first page of this  
12 memo, there is a May 1st e-mail from LeRoy  
13 Potts at 4:30 p.m. to you and others, bullet  
14 pointing what he describes as difficult  
15 conditions in Haiti.

16 Do you see that?

17 A. Yes.

18 Q. Okay. To your knowledge, were the  
19 factual observations made by Potts accurate?

20 MR. MARUTOLLO: Objection. Again,  
21 to the extent it calls for internal government  
22 deliberations, I instruct you not to answer

1 under the deliberative process privilege, but  
2 you can answer within the four corners of this  
3 document.

4 THE WITNESS: I mean, I can't speak  
5 to the accuracy of the information in these  
6 bullet points, that is the research unit's  
7 expertise. I treated them as accurate in my  
8 work.

9 BY MR. CONNELLY:

10 Q. Okay. And then the last memo, which  
11 is the top memo, appears to go from Brandon  
12 Prelogar to you on May 8 of 2017, but his, you  
13 know, the top line of his memo is Roy/Tom.

14 Is it safe to assume that Roy was  
15 probably LeRoy Potts?

16 A. Yes.

17 Q. Who would Tom be?

18 A. Tom Perkowski.

19 Q. Who was he?

20 A. He worked for Roy in the research  
21 unit.

22 Q. Okay. And this is -- I get to ask



1 the questions, but some of them are more -- may  
2 be more difficult to answer than others.

3 Do you have an understanding if the  
4 -- if Brandon is addressing Roy and Tom, but it  
5 appears that the memo only goes to you, are you  
6 able to puzzle through that or do you have some  
7 understanding of that?

8 MR. MARUTOLLO: Objection. Calls  
9 for speculation, but you can answer.

10 THE WITNESS: I don't remember  
11 regarding this specific e-mail, but Brandon and  
12 I have a general practice sometimes of sending  
13 a draft e-mail to each other before we send it  
14 to the final recipient, to see if the other  
15 person has any thoughts or edits.

16 BY MR. CONNELLY:

17 Q. Okay. Are you guys basically -- are  
18 kind of co-equals in the organization at least  
19 at this time, you and Brandon?

20 A. He was the chief of the division, I  
21 was deputy chief of the division, but we led it  
22 together essentially.

1 Q. Okay. And according to Brandon's  
2 e-mail, you have been asked to gather up  
3 certain information and then he itemizes them  
4 as numerically 1, 2, 3 in his e-mail.

5 Do you see that?

6 A. Yes.

7 MR. MARUTOLLO: Objection.

8 BY MR. CONNELLY:

9 Q. When I said you, I guess let's be  
10 more specific.

11 Were you personally asked to be a  
12 part of this or who is being asked to gather  
13 this information?

14 MR. MARUTOLLO: Objection.

15 Without divulging any government  
16 deliberations, you can answer that question.

17 THE WITNESS: I think we, Brandon  
18 and I were going to be asking Roy and Tom for  
19 the research unit to be gathering this  
20 information.

21 BY MR. CONNELLY:

22 Q. And it was Kathy -- help me out with

1 the last name. I don't have it in front of me.  
2 Nuebel Kovarik who asked you to do this?

3 A. I believe the reference in the first  
4 sentence of Brandon's e-mail, Kathy, refers to  
5 Kathy Nuebel Kovarik.

6 Q. Okay. That's fine. And what was  
7 your understanding of the purpose of gathering  
8 this information?

9 MR. MARUTOLLO: Objection. I'm  
10 going to direct the witness not to answer that  
11 question. Again, that relates to deliberative  
12 process privilege and, you know, I think that  
13 goes beyond just the mere general subject  
14 matter of the communication that would be  
15 permitted, if we were to put a privilege log in  
16 place here, so when we produce the documents, I  
17 think you can answer questions related to the  
18 document, but the question as raised, we would  
19 object.

20 BY MR. CONNELLY:

21 Q. Do you have a recollection of  
22 whether -- in what portion of, you know, a memo

1 for extension or termination, this type of  
2 information would be used.

3 Was that the purpose of gathering  
4 it, so that ultimately, it might be  
5 incorporated into some memo exploring either  
6 designation or termination or extension?

7 MR. MARUTOLLO: Objection. Vague.

8 And also again, to the extent it  
9 calls for internal government deliberations, I  
10 instruct you not to answer the question. It  
11 also calls for speculation, as you didn't draft  
12 this e-mail, but you can answer to the extent  
13 you can base that answer on this document that  
14 is in front of you.

15 THE WITNESS: Looking at this  
16 e-mail, it looks like this information was  
17 being requested by DHS headquarters in order to  
18 feed into the Haiti TPS decision memo, which is  
19 the memo we have been talking about from the  
20 director of USCIS to the secretary.

21 MR. CONNELLY: Let's go to KA-22.

22 (Deposition Exhibit KA-22 was marked

1 for identification.)

2 THE WITNESS: Okay.

3 BY MR. CONNELLY:

4 Q. Okay. I am interested in your final  
5 memo on May 12 at 3:38 p.m., which is at the  
6 top. It is obviously part of the chain.

7 Am I correct that the context is  
8 that your group has been asked to review some  
9 materials for the head of Homeland Security's  
10 upcoming meeting with the Haitian foreign  
11 minister?

12 MR. MARUTOLLO: Objection, to the  
13 extent the document speaks for itself, but you  
14 can answer limited to the document.

15 THE WITNESS: Yes. It looks like  
16 this is asking for our review of the materials  
17 that had been drafted for that meeting.

18 BY MR. CONNELLY:

19 Q. Do you have a recollection of  
20 reviewing that sum of materials?

21 A. I believe that I did review the  
22 materials based on this e-mail, but I certainly

1 don't recall the details of those materials.

2 Q. And your observation in your e-mail  
3 is: "The explanation of the current  
4 situation/conditions in Haiti in the BM is  
5 amazing. I love it."

6 Correct?

7 A. Yes.

8 Q. When you say, "the explanation,"  
9 what does that mean? Is that a reference to  
10 the materials or -- or what document are you  
11 referring to?

12 MR. MARUTOLLO: Objection. Again to  
13 the extent it calls for internal government  
14 deliberations, I instruct you not to answer  
15 under the deliberative process privilege.

16 You can answer -- your explanation  
17 in this document but I instruct you not to  
18 answer to the extent it's related to how you  
19 interpreted something or how others interpreted  
20 something. You can answer with those  
21 limitations.

22 THE WITNESS: I think I was

1 referring to something that must have been  
2 included in the briefing memo that I reviewed,  
3 that explained the current situation and  
4 conditions in Haiti.

5 BY MR. CONNELLY:

6 Q. What is the acronym BM?

7 A. Briefing memo.

8 Q. So I'm going to reword your  
9 observation and that will be: "The explanation  
10 of the current situation/conditions in Haiti in  
11 the briefing memo is amazing."

12 And is the briefing memo, is that  
13 the document that you received from who? Who  
14 generated the briefing memo? I don't care what  
15 is in it. I am just trying to understand who  
16 is the author of the document.

17 A. Looking at the e-mail chain in the  
18 initial e-mail from 3:30, when it says: "DHS  
19 policy has requested USCIS review materials for  
20 the meeting," I take that to mean that most  
21 likely, DHS policy was the originator of those  
22 materials.

1           Q.       Have you in the past -- beyond this  
2       particular circumstance, have you been asked in  
3       the past to review a briefing memo generated by  
4       DHS policy?

5                   MR. MARUTOLLO:   Again, I would  
6       instruct the witness not to answer to the  
7       extent it calls for any internal government  
8       deliberation.   If it doesn't, you can answer  
9       the question.

10                  THE WITNESS:   Yes, it is very common  
11       practice.

12                  BY MR. CONNELLY:

13           Q.       Okay.   And when you indicate that  
14       the briefing memo or at least the explanation  
15       of the current conditions is amazing, do you  
16       recall, you know, whether you were using, you  
17       know, either sarcasm, irony, valley girl talk,  
18       whatever, you know, I mean amazing gets used  
19       quite a bit, most overused words at weddings  
20       that I can recall, what was your -- what were  
21       you conveying by using that term?

22                  MR. MARUTOLLO:   Again, I would



1 object on deliberative process grounds and  
2 object to vagueness as well. You can certainly  
3 explain but not how others interpreted it, what  
4 is written in this e-mail.

5 THE WITNESS: My best recollection  
6 of what I meant is -- by amazing, is that I  
7 found the explanation of conditions in the  
8 briefing memo to be surprising to me.

9 BY MR. CONNELLY:

10 Q. And then you say, "I love it."

11 Again, just your explanation of what  
12 you meant to convey by that, that you genuinely  
13 agreed or were you speaking sarcastically,  
14 ironically, or in some fashion other than just  
15 a declarative statement?

16 MR. MARUTOLLO: Objection.

17 You can answer.

18 THE WITNESS: I was speaking  
19 sarcastically.

20 MR. CONNELLY: Okay. I will go to  
21 KA-23, which is 1564.

22 (Deposition Exhibit KA-23 was marked

1 for identification.)

2 THE WITNESS: Okay.

3 BY MR. CONNELLY:

4 Q. Your memo on May 15 at 12:40 p.m.,  
5 you start off by saying: "We finished our  
6 review and inserted our edits/comments into the  
7 documents."

8 What documents? I just need a  
9 better -- I would like a more specific  
10 description of what the documents were.

11 A. I think they were communications  
12 documents relating to Haiti TPS and my best  
13 guess is that they were the documents  
14 hyperlinked in the May 15, 9:50 e-mail in this  
15 chain.

16 Q. And you go on to say: "The majority  
17 of our changes are to make clear that the  
18 decision is to terminate Haiti's designation."

19 Am I correct that as of the middle  
20 of May in 2017, in that time frame, you thought  
21 that the decision was that Haiti's status as a  
22 TPS entity was going to be terminated, correct?

1 MR. MARUTOLLO: Objection. Again, I  
2 would direct you not to answer that question to  
3 the extent it goes to your own personal views  
4 or personal thoughts. I would instruct you not  
5 to answer that question under the deliberative  
6 process privilege as to that question as  
7 phrased.

8 MR. CONNELLY: You're not going to  
9 let her answer that question at all?

10 MR. MARUTOLLO: No, I mean, the way  
11 it's phrased --

12 MR. CONNELLY: Okay, okay. All  
13 right. Let me see if I can rework it.

14 BY MR. CONNELLY:

15 Q. What was your -- what was your  
16 understanding in terms of the work that you  
17 were generating in the middle of May of 2017,  
18 what was the decision going to be as far as  
19 continuing or terminating Haiti's TPS  
20 designation?

21 MR. MARUTOLLO: Again, I would  
22 direct the witness not to answer, that calls

1 for internal government deliberations. To the  
2 extent then under the deliberative process  
3 privilege, to the extent the question is to  
4 explain something within this e-mail, KA-23,  
5 you know, we will allow her to answer the  
6 question along those lines with certain  
7 objections, but a blanket question about her  
8 thoughts of where the decision was at a certain  
9 point is clearly predecisional, clearly  
10 deliberative, and we would instruct  
11 Ms. Anderson not to answer.

12 MR. CONNELLY: So you're not going  
13 to let her answer that question at all? I  
14 thought -- you put a qualifier in there, but  
15 you went on for a little bit.

16 MR. MARUTOLLO: No, I mean, I put  
17 the qualifier in. I mean, if you rephrase the  
18 question. It's about the e-mail. I don't want  
19 to put words in her mouth either. I mean, if  
20 the question is rephrased and it is related to  
21 the e-mail, I think we might, you know, there  
22 may be more ability to have Ms. Anderson answer

1 the question.

2 MR. CONNELLY: Well, I'm just going  
3 to stay with what's commonsensical.

4 BY MR. CONNELLY:

5 Q. Let's look back -- I mean, let's go  
6 back and forth so you know where I am coming  
7 from.

8 Ultimately, at the end of May, there  
9 was a decision made to extend the TPS status of  
10 Haiti, correct?

11 MR. MARUTOLLO: Objection.

12 You can answer.

13 THE WITNESS: Yes.

14 BY MR. CONNELLY:

15 Q. Yes, okay. But a few weeks earlier  
16 in the middle of May, am I correct that at that  
17 time, you were helping to try to generate  
18 documents under what appeared to be the  
19 consensus, the CIS trying to assist in  
20 terminating Haiti's designation.

21 I am just trying to -- it couldn't  
22 be plainer to me, but you were there and I'm

1 not. I'm just reading from a document. I want  
2 to hear from someone who was there whether in  
3 the middle of May, the decision appears there  
4 was going to be to terminate.

5 MR. MARUTOLLO: Objection. Again, I  
6 would direct the witness not to answer. The  
7 question as posed is about whether it appeared  
8 that the decision was going to be to terminate,  
9 that goes right to a predecisional deliberative  
10 communication. So I'm going to direct this  
11 witness not to answer that question.

12 Again, I'm happy to direct the  
13 witness to answer questions that are more  
14 limited to this e-mail, KA-23, but the way the  
15 question is phrased, I will instruct  
16 Ms. Anderson not to answer the question.

17 BY MR. CONNELLY:

18 Q. Were the majority of the changes  
19 that you made to the document, did they make  
20 clear that the decision was to terminate  
21 Haiti's designation?

22 MR. MARUTOLLO: Again, I would raise

1 the same objection. I think, again, unless you  
2 are talking about something specific in this  
3 e-mail, KA-23, I would direct the witness not  
4 to answer because again, it remains a  
5 predecisional memorandum that is -- or a  
6 document that is subject to deliberative  
7 process privilege.

8 BY MR. CONNELLY:

9 Q. Was it accurate on May 15, 2017,  
10 that the majority of your changes made clear  
11 that the decision was to terminate Haiti's  
12 designation?

13 MR. MARUTOLLO: Again, I'm sorry to  
14 keep pushing this, but I think the question is  
15 still substantively the same, it's the same  
16 objection. It's a predecisional, deliberative  
17 document that you are asking about substantive  
18 changes to, and we would assert the  
19 deliberative process privilege and direct  
20 Ms. Anderson not to answer.

21 BY MR. CONNELLY:

22 Q. Were you being truthful when you

1 made the assertion in your May 15, 2017 e-mail:  
2 "The majority of our changes are to make clear  
3 that the decision is to terminate Haiti's  
4 designation rather than focusing on the  
5 six-month extension of benefits."

6 Was that a truthful statement at the  
7 time?

8 MR. MARUTOLLO: Objection.

9 But you can answer that question.

10 THE WITNESS: Yes.

11 BY MR. CONNELLY:

12 Q. The sentence continues on a bit, and  
13 to pick it up, you say the -- your changes are  
14 to make clear that the decision is to terminate  
15 rather than focusing on a six-month extension:  
16 "Which we did for West Africa at the  
17 encouragement of the White House."

18 Is that a reference to some type of  
19 a six-month extension given to West Africa?

20 A. That's a reference to the decision  
21 that was made to terminate the TPS decisions of  
22 Guinea, Liberia and Sierra Leone. In 2016,



1 that decision was made. And it had been  
2 explained as a six-month extension of benefits  
3 in many of the communication materials.

4 Q. So West Africa was a catch-all  
5 phrase for the more specific countries that you  
6 just mentioned?

7 A. Yes.

8 Q. And then the last one, the one  
9 that's above it, by Alex Echevarria,  
10 E-C-H-E-V-A-R-R-I-A, there's a reference to an  
11 acronym CSPED.

12 Do you see that?

13 A. Yes.

14 Q. Can you tell me what that is?

15 A. It's the customer service and public  
16 engagement division or directorate, I'm not  
17 sure.

18 MR. CONNELLY: I'm going to go to  
19 KA-25, which is 8094.

20 (Deposition Exhibit KA-25 was marked  
21 for identification.)

22 MR. MARUTOLLO: Can we go off the

1 record for just a moment.

2 MR. CONNELLY: Yes.

3 THE VIDEOGRAPHER: We're going off  
4 the record.

5 The time is 14:50.

6 (A short recess was taken.)

7 THE VIDEOGRAPHER: We're going back  
8 on the record.

9 The time is 14:53.

10 BY MR. CONNELLY:

11 Q. All right. I have given you KA-25  
12 which is an e-mail chain that ends up on May  
13 20, 2017.

14 Do you have that before you?

15 A. Yes.

16 Q. What I think I will do for your sake  
17 to ease working with your handwritten notes  
18 that we got last night, do you still have in  
19 front of you the series of handwritten notes  
20 which run from KA-50 to KA--- I think 53?

21 A. Yes.

22 MR. MARUTOLLO: I'll just note for

1 the record, we do object to questions related  
2 to KA-50, 51, 52 and 53 on the grounds of  
3 deliberative process privilege.

4 We will permit questions to be asked  
5 on this as we produced them yesterday, with the  
6 caveat that they were produced because they  
7 were -- that Ms. Anderson had used them to  
8 refresh her recollection as we noted in the  
9 government's letter last night, but we do want  
10 to at least maintain our objection that these  
11 are deliberative documents.

12 BY MR. CONNELLY:

13 Q. I may ask you to multitask, we'll  
14 eventually get to these, you know, separately  
15 if need be, but because you had told me earlier  
16 in the day that at least some of these  
17 documents, your -- kind of the best  
18 recollection was that maybe they were generated  
19 sometime around the May 20 or, you know,  
20 slightly later dates, with the one on top  
21 perhaps being as late as May 31.

22 I thought I would ask you to keep

1     those nearby because in asking you questions  
2     now about the next several documents which were  
3     all in this time frame, if any of that, you  
4     know, I am going to get around to asking you  
5     about all of these. You're not going to be  
6     able to duck me asking you about them, so if  
7     it's easier for you to bring to my attention,  
8     okay, well, that is not matching up with my  
9     notes, that's how we will handle it. I will  
10    leave it up to you whether you want to do that  
11    or not. Okay.

12                 So for the moment, let's just go to  
13    KA-25.

14                 Have you had a chance to review it?  
15    I'm sorry, maybe you haven't looked at it yet.

16           A.     I'm okay. I have looked at it.

17           Q.     You have?

18           A.     Yes.

19           Q.     If we go to the -- on the bottom of  
20    the first page, Mr. Prelogar on May 20, at 9:58  
21    a.m., sends you an e-mail and the subject is:  
22    "Haiti Comms," C-O-M-M-S.

1                   What does COMMS mean?

2           A.       I believe it's an abbreviation for  
3   communications.

4           Q.       Okay. And he says in his e-mail:  
5   "These people need a helping handout." I'm  
6   continuing: "So deeply disrupted here this  
7   pillar of normality (our trusty second in  
8   charge) was anything but. Looks like there are  
9   whack jobs everywhere, even in the civil  
10   service."

11                   Who -- what was your understanding  
12   of who the people were who needed helping out?

13                   MR. MARUTOLLO: Objection. Again,  
14   this calls for internal government  
15   deliberations, instruct Ms. Anderson not to  
16   answer this question under the deliberative  
17   process privilege.

18                   Also calls for speculation as she  
19   did not -- she did not draft this e-mail. I  
20   will, however, limit Ms. Anderson's testimony  
21   in this area to explain her understanding of  
22   this document, but not how Mr. Prelogar, what

1 he meant or how he interpreted this  
2 characterization.

3 BY MR. CONNELLY:

4 Q. That's okay. I will say, you know,  
5 I will not pretend to be the world's greatest  
6 lawyer, I'd like to think my skills lie in some  
7 other directions, but that really wasn't my  
8 question. I didn't ask anything at all about  
9 what was in Brandon's head.

10 So, but what I was asking her was  
11 exactly what you said she could answer, so  
12 let's go ahead.

13 MR. MARUTOLLO: I disagree with that  
14 characterization, but understood.

15 MR. CONNELLY: Okay.

16 THE WITNESS: I'm not sure who he  
17 was referring to when he said these people need  
18 a helping handout.

19 BY MR. CONNELLY:

20 Q. Do you know who he was referring to  
21 when he talked about a person who was  
22 characterized as our trusty second in charge?

1 MR. MARUTOLLO: I would just  
2 reassert the same objection from a moment ago,  
3 but you can answer given that objection.

4 THE WITNESS: I read that to mean  
5 Deputy Secretary Duke.

6 BY MR. CONNELLY:

7 Q. And what -- did you have an  
8 understanding at the time, your understanding,  
9 I am not asking you to get inside of Mr.  
10 Prelogar's head.

11 When you read whack jobs, who did  
12 you think that referred to?

13 MR. MARUTOLLO: Again, I instruct  
14 you not to provide internal government  
15 deliberations, but to the extent you have an  
16 understanding of what this meant, I am also  
17 objecting on the grounds of speculation, you  
18 can answer that question.

19 THE WITNESS: I'm not sure of what  
20 individuals he's speaking about, but I think  
21 that this general transmission was talking  
22 about my meeting with Deputy Secretary Duke the

1 previous day.

2 BY MR. CONNELLY:

3 Q. Okay. And was that a meeting that  
4 he also attended?

5 A. No.

6 Q. So is it a fair conclusion you  
7 reached that you had relayed to him in some  
8 fashion, some aspects of that meeting and he's  
9 giving you his reaction to what he learned  
10 about the meeting from you?

11 MR. MARUTOLLO: Objection. Again, I  
12 think that directly calls for internal  
13 government deliberations and I instruct the  
14 witness not to answer under the deliberative  
15 process privilege.

16 BY MR. CONNELLY:

17 Q. Do you -- let's go back then.

18 What was the nature of your meeting  
19 with what was then, what, Acting Secretary  
20 Duke?

21 A. The question is what her position  
22 was at the time?



1 Q. Yeah.

2 A. I believe she was deputy secretary  
3 at that time. I can't remember if she was  
4 acting deputy secretary or actually deputy  
5 secretary.

6 Q. And you said that the e-mail from  
7 Mr. Prelogar is on a Saturday, May 20, and you  
8 just told me that you think he was commenting  
9 on a meeting that you had with Deputy Secretary  
10 Duke the previous day?

11 A. Correct.

12 Q. Who was in attendance of that  
13 meeting with you and the Acting Secretary Duke?

14 A. The people that I recall being at  
15 the meeting, I'm not entirely sure that this  
16 was everybody who was there. I was there,  
17 Deputy Secretary Duke was there, James McCament  
18 was there and Gene Hamilton.

19 Q. So those were all Department of  
20 Homeland Security folks?

21 A. Yes.

22 Q. And what was the -- I don't want to

1 get into deliberative process, just what was  
2 the topic or topics covered at the meeting?

3 A. The nature of the meeting was to  
4 talk about the TPS process.

5 Q. Talk about it more broadly than just  
6 Haiti?

7 A. Yes.

8 Q. Did you have disagreements with  
9 Deputy Secretary Duke in terms of some of the  
10 aspects of that process?

11 MR. MARUTOLLO: Again, objection.  
12 This calls for internal government  
13 deliberations arising out of a meeting that was  
14 attended by various people within the  
15 Department of Homeland Security, so I instruct  
16 Ms. Anderson not to answer that question under  
17 the deliberative process privilege.

18 BY MR. CONNELLY:

19 Q. You -- I guess responded. He wrote  
20 to you on a Saturday at 9:58 a.m., and you got  
21 back to him at 10:41 a.m., and part of your  
22 response is: "You caught me at the peak of my

1 fuming."

2 What is that a reference to?

3 MR. MARUTOLLO: Objection.

4 Deliberative process grounds, same as we  
5 discussed earlier, but you can answer that  
6 question.

7 THE WITNESS: I believe I was  
8 referring to being frustrated following the  
9 meeting that had occurred the previous day.

10 BY MR. CONNELLY:

11 Q. And frustrated, not -- again, I  
12 don't want to go into any kind of  
13 deliberations, but just in terms of your job  
14 duties and responsibilities, were you  
15 frustrated about them in some fashion?

16 MR. MARUTOLLO: Objection.

17 You can answer.

18 THE WITNESS: Them, being my job  
19 duties?

20 BY MR. CONNELLY:

21 Q. Yeah, or responsibilities. Yeah.

22 A. No, I wasn't frustrated about my job

1 duties or responsibilities.

2 Q. Is it safe to say you weren't -- the  
3 meeting wasn't about you getting a salary raise  
4 or a promotion. Your frustration had nothing  
5 to do with those kinds of topics, correct?

6 MR. MARUTOLLO: Objection.

7 THE WITNESS: I'm sorry, I didn't  
8 understand.

9 BY MR. CONNELLY:

10 Q. No. I am just trying to -- I'm just  
11 trying to narrow the universe of what -- again,  
12 without going into who said what, I just want  
13 the topic area. Much like an attorney  
14 privilege log, you are given the topic area  
15 even though you are not given any detail.

16 I just want to get a sense of what  
17 it was that you were frustrated about.

18 MR. MARUTOLLO: Objection, again,  
19 she did already give like a privilege log, the  
20 general subject matter of that meeting, the  
21 document speaks for itself, and what that  
22 question is posing, is getting into the

1 deliberative discussions that took place at  
2 that meeting so it goes right to the heart of  
3 the substance of that meeting, so I instruct  
4 the witness not to answer under the  
5 deliberative process privilege.

6 BY MR. CONNELLY:

7 Q. Your -- the final e-mail is about an  
8 hour later, back from Mr. Prelogar, where he  
9 says: "Maybe we should start flooding them  
10 with new TPS recs."

11 Is recs a shortened form of  
12 recommendations?

13 A. Yes, I believe so.

14 Q. And he goes on to say: "Could be a  
15 real hoot."

16 Do I take it that this is, at least  
17 in some fashion, not intended to be taken  
18 literally?

19 MR. MARUTOLLO: Objection. Calls  
20 for speculation. You can answer.

21 THE WITNESS: I think it may have  
22 been somewhat hyperbolic.

1 BY MR. CONNELLY:

2 Q. That was on May 20th.

3 I am going to now give you KA-27.

4 We will skip a document. This is the register,  
5 2383.

6 (Deposition Exhibit KA-27 was marked  
7 for identification.)

8 BY MR. CONNELLY:

9 Q. Am I correct that this is the FRN  
10 for the extension of the TPS status for Haiti  
11 issued on May 24, 2017?

12 A. Yes, that's what it looks like.

13 Q. And if I recall correctly from this  
14 morning, you thought that perhaps most of your  
15 handwritten notes related to meetings that  
16 occurred prior to the time that this FRN came  
17 out?

18 A. I think that's correct, yes.

19 Q. With the possible exception, if you  
20 look at it -- of KA-50, which at least at the  
21 top seems to indicate that the call occurred on  
22 May 31 which would have been a week later?

1           A.       Yes, that was after the FRN came  
2     out.

3           Q.       Okay. And let me go into this  
4     document for a minute and then we will return  
5     and get to your handwritten documents.

6                    If you will go to Page 4 of the FRN.

7                    And again, as I had asked you about  
8     earlier, extensions, there is a bold category  
9     that begins with the question: "Why is the  
10    secretary extending the TPS designation for  
11    Haiti through January 22, 2018."

12                   Is that right?

13          A.       Yes.

14          Q.       Could you help me -- this must have  
15    something to with printing. You will see that  
16    the second paragraph has an asterisk that  
17    begins with -- that has a number 23832 in bold?

18          A.       Uh-huh.

19          Q.       Can you decipher or translate that  
20    for me?

21          A.       It's the physical Federal -- Federal  
22    Register notice page number. That's the page

1 number that begins a new page in the printed  
2 Federal Register.

3 Q. I see. I am just going back to -- I  
4 seem to have forgotten 31 if we go back, but I  
5 shouldn't waste time on that.

6 A. I see it.

7 Q. You found it?

8 A. It's in the last photograph on Page  
9 2.

10 Q. I see it. They don't necessarily  
11 put it in the margin.

12 A. No, it's just wherever the page  
13 break is in the printed version.

14 Q. Thank you. Am I correct, and this  
15 is really -- I mean, it does speak for itself,  
16 but as a participant -- you were a participant  
17 and had a role in the process of generating the  
18 materials that ultimately led to a decision  
19 that is summarized in this document, correct?

20 MR. MARUTOLLO: Objection. Vague,  
21 but you can answer.

22 THE WITNESS: Yes, I participated in



1 the process that led to this decision.

2 BY MR. CONNELLY:

3 Q. Okay. Okay. And under the section  
4 that explains why the secretary extended the  
5 designation, if you go down two paragraphs, the  
6 paragraph that begins with Hurricane Matthew,  
7 was that one of the factors that is raised  
8 under the category of why the secretary  
9 extended the designation?

10 A. Yes. Hurricane Matthew is discussed  
11 in that section.

12 Q. Hurricane Matthew which hit Haiti in  
13 October of 2016, which would have been  
14 substantially after the January 2010  
15 earthquake, correct?

16 MR. MARUTOLLO: Objection. Vague.  
17 You can answer.

18 THE WITNESS: It's after 2010, yes.

19 BY MR. CONNELLY:

20 Q. And then the next paragraph talks  
21 about some heavy rains in late April of 2017  
22 that caused flooding and landslides as being a

1 part of the reasons why the secretary extended  
2 the designation, correct?

3 A. Yes.

4 Q. And again, I am just making this for  
5 the record.

6 Those heavy rains would have been  
7 well after the January 2010 earthquake,  
8 correct?

9 A. They were in 2017 which was after  
10 the 2010 earthquake.

11 Q. Then finally, the next paragraph, I  
12 will quote a portion of -- the early portion of  
13 the paragraph: "Haiti's weak public health  
14 system is further strained due to an ongoing  
15 cholera epidemic whose inception was traced to  
16 U.N. peacekeepers assisting with earthquake  
17 recovery."

18 And that was also included among the  
19 reasons why the secretary extended the  
20 designation?

21 A. Yes.

22 Q. And again, if peacekeepers couldn't

1 show up until after the earthquake, so the  
2 cholera epidemic occurred after the January  
3 2010 earthquake, correct?

4 MR. MARUTOLLO: Objection. I think  
5 the document speaks for itself, but you can  
6 answer the question.

7 THE WITNESS: My understanding is  
8 that the cholera epidemic started after the  
9 earthquake.

10 BY MR. CONNELLY:

11 Q. Okay. Now, framing -- we have the  
12 FRN which occurs on May 24 and the previous  
13 document that I had been asking you about, I  
14 think was on -- I think it was May 20, yeah, it  
15 was May 20th. All right.

16 Now that we are in this part of the  
17 calendar, why don't you help me through these  
18 meetings that occurred that you thought  
19 sometime in the time frame and if you would, go  
20 ahead and arrange these documents in whatever  
21 you think is the proper sequential order and  
22 that's how I'll talk to you about them.

1           A.       So I believe that KA-53 which is TPS  
2       colon at the top.

3           Q.       Okay.

4           A.       I think these were notes from the  
5       May 19 meeting with Deputy Secretary Duke that  
6       I was referring to in the May 20th e-mail.

7           Q.       So I should start with that, or do  
8       you want to tell me how you have these shuffled  
9       so I know the order?

10          A.       Let me put them in order first so  
11       that I am doing it all at the same time.

12                 I think that KA-51 were notes from  
13       the media call once the announcement was made.  
14       I think I had previously said maybe that was on  
15       May 20th, but now after we looked at this  
16       e-mail, the 20th was a Saturday so I don't  
17       think it was Saturday so it possibly was Monday  
18       following that, although I'm not certain of the  
19       date. But it was the day that the public  
20       announcement from the secretary was made,  
21       possibly the 22nd.

22          Q.       Okay.

1           A.       And then KA-52, I believe followed  
2       that. I was thinking it was the same week that  
3       the announcement was made. Again, my best  
4       recollection was that maybe it was the 23rd of  
5       May, so I think that was next, but again, I'm  
6       not a hundred percent certain without looking  
7       at my calendar. And then the May 31 for 50, I  
8       think. So I have 53, 51, 52, 50 in  
9       chronological order.

10          Q.       All right. So starting with KA-53,  
11       the third line says S2, and is that a reference  
12       to Deputy Secretary Duke?

13          A.       Yes.

14          Q.       Okay. If you will turn the page,  
15       near the bottom of what is the Bates number on  
16       this page now is Anderson 2, the last five  
17       lines start with G.

18                    Could you read the remainder of that  
19       page.

20          A.       "Gene, we haven't tracked data.  
21       Public benefits, we don't know, hey, what are  
22       you doing with your time here. During next six

1 months for Haiti."

2 Q. Do you remember who or where you put  
3 the quotes from, hey, we don't -- "hey, what  
4 are you doing with your time here?"

5 Who are you quoting?

6 MR. MARUTOLLO: Again, objection to  
7 the extent it calls for internal government  
8 deliberations, I instruct you not to answer  
9 under the deliberative process privilege. You  
10 can identify, and I think this is consistent  
11 with the question, the only identity -- just  
12 for clarification purposes, only the identity  
13 of the person who you quoted here in your  
14 notes.

15 THE WITNESS: I think all of these  
16 last five lines were reflecting statements made  
17 by Gene including what it is in quotes.

18 BY MR. CONNELLY:

19 Q. And if you go -- let's go to the  
20 next page. Let's start -- about four lines  
21 down after the little break. If you'd start  
22 reading that for about six or seven lines, I

1 will tell you when to stop.

2 A. "If a new designation, what can we  
3 do to gather new info. Not if a million man  
4 hours. S1 and S2 like to make decisions on the  
5 facts. Gene, yes, ma'am, that's the right way  
6 to do things. Not to disparage anyone in past  
7 administrations, but kind of a perfunctory  
8 decision, things are still bad. Don't want to  
9 give false hope. Don't want people to go back  
10 to war zone. Need to use our resources wisely.  
11 Bring back programatic integrity."

12 Q. Okay. That's fine. What is -- S1  
13 would have been Secretary Kelly?

14 A. That was a reference to Secretary  
15 Kelly.

16 Q. And S2 would have been a reference  
17 to Duke?

18 A. Yes.

19 Q. On the next page, could you tell me  
20 -- well, first of all, the reference -- there  
21 is a reference -- not reference, there is the  
22 word James.

1 Is that McCament?

2 A. Where do you see that?

3 Q. I'm sorry. On Page 04.

4 A. Yes, that was a reference to James  
5 McCament.

6 Q. And the next lines, apparently S2  
7 being Duke and then it says: "Can we support  
8 keeping state in their lane?"

9 Is that right?

10 A. That's what it says.

11 Q. Did I read it correctly?

12 A. Yes.

13 Q. Let's just use that as an easy  
14 example to set this up.

15 MR. CONNELLY: Joe, I will just ask  
16 the question and then we're going to probably  
17 have a little bit of conversation. You may get  
18 a breather.

19 I would like to know, you know, her  
20 best recollection of what, you know, Duke was  
21 asking and what the answer was.

22 Are you going to assert privilege



1 for my exploring the, you know what is behind  
2 the notes that are obviously less than the  
3 entire conversation?

4 MR. MARUTOLLO: Yes. I mean, I  
5 would assert deliberative process privilege.

6 MR. CONNELLY: Help me out here.  
7 I'm kind of making a record. Let's stay on the  
8 record on this.

9 MR. MARUTOLLO: Sure.

10 MR. CONNELLY: I understand that you  
11 felt, you know, you should give us these  
12 documents because they apparently were used by  
13 the deponent in getting ready. But of what  
14 value are they to me, and how have you not  
15 waived any possible privilege by having handed  
16 me contemporaneous documents that occurred at  
17 the time of these meetings?

18 MR. MARUTOLLO: Well, I think you  
19 can answer that in a few ways. First, we  
20 produced deliberative materials that were  
21 produced in the Ramos case in this matter,  
22 consistent with how we produce materials that

1     were formerly deliberative. We have limited --  
2     throughout this deposition, we have limited  
3     Ms. Anderson's testimony to just explaining  
4     certain items in her e-mails but not about  
5     anything that goes beyond the four corners of  
6     the document.

7             Here, we produced these documents in  
8     good faith because they were used by  
9     Ms. Anderson to refresh her own memory. We  
10    wanted to produce them to plaintiffs as quickly  
11    as possible upon receipt, and having said that  
12    though, we noted explicitly in our letter that  
13    the reason we were producing them is because  
14    they were independently used to refresh her  
15    recollection.

16            We did not waive any privilege in  
17    our letter and the notes speak for themselves.  
18    You can ask her questions about, you know, what  
19    things mean and to explain things within the  
20    notes, but from our perspective, any discussion  
21    about what Secretary Duke said or what  
22    Secretary Duke asked to do is, I think by

1 definition, an internal government deliberation  
2 predecisional and, you know, we would instruct  
3 the witness not to answer that question under  
4 the deliberative process privilege.

5 MR. CONNELLY: And I may have  
6 misunderstood what you just told me, but if you  
7 say, well, we have these notes so I can ask,  
8 you know, what they mean. Obviously, I think,  
9 you know, that I would love to ask, okay, when  
10 Deputy Secretary Duke said, can we support  
11 keeping state in their lane, question mark, I  
12 would like to know what she meant by that.

13 MR. MARUTOLLO: Well, I mean, I  
14 think first off, that kind of question would  
15 call for speculation anyway, but I think it's  
16 fair and again, not to put questions in your  
17 mouth, but I think it's fair to limit it to Ms.  
18 Anderson's explanation of -- that statement  
19 without her then also saying why or any other  
20 information that Secretary Duke provided that  
21 is not within these notes.

22 So again, I appreciate that

1 deliberative process and particularly in a  
2 situation like this, where we produced  
3 documents that we still maintain an assertion  
4 that they are deliberative, just like the Ramos  
5 documents, we still assert are deliberative.

6 We have not lost that in this case,  
7 but they have been produced in this case, but  
8 we still, you know, want to assert the  
9 privilege and we will assert the privilege so  
10 the question is about, what, you know, why did  
11 Secretary Duke say, according to these notes,  
12 support keeping state in their lane or, you  
13 know, why did she say that, we would object on  
14 deliberative ground.

15 MR. CONNELLY: And I, you know,  
16 maybe we can find common ground here, I'm not  
17 sure, but really, I will be happy to dovetail  
18 asking the question in a fashion that you think  
19 she can answer.

20 So what is -- I mean, is the rubric,  
21 if I have a question and I'm not quite sure --  
22 well, if I have a question like the one that

1 we're just on, if I say, what did she mean when  
2 she said can we support keeping the state in  
3 their lane.

4 I presently -- I have no idea what  
5 she meant. I mean, she was there, I would like  
6 to find out what she thinks Duke meant, but is  
7 that something that is fair game?

8 MR. MARUTOLLO: I don't think that  
9 is fair game. I would submit that is a  
10 deliberative -- any discussion that Secretary  
11 Duke made during this meeting or any of these  
12 participants made during this meeting is  
13 deliberative. And certainly would chill  
14 further communications, if any comments that  
15 are made during these predecisional meetings  
16 would then be questioned at -- in litigation,  
17 you know, at depositions.

18 I mean, I think, you know, we would  
19 limit any discussion of these documents related  
20 to the four corners of these documents. I  
21 mean, obviously, we've had a number of times  
22 during this deposition, where we've instructed

1 Ms. Anderson not to answer and other times  
2 where she has been able to at least explain  
3 portions of the document or how she interpreted  
4 things, you know, in terms of explanations, but  
5 not how others interpreted items.

6 But I think frankly, it's going to  
7 depend on how the question is asked. I mean, I  
8 think that our objection has been clear  
9 throughout the deposition about deliberative  
10 process.

11 MR. CONNELLY: And as you know, you  
12 know, this is a -- this process has been moving  
13 along at a fast clip, so I am not aware in  
14 terms of whatever you sent over to us, to the  
15 plaintiffs' lawyers, you know, in terms of your  
16 views on deliberative process, have you  
17 specifically -- because I haven't read it.

18 Have you specifically addressed  
19 these notes in terms of what your position is  
20 on the notes?

21 MR. MARUTOLLO: Yes. So last night  
22 in the letter, we did -- I mean, just to be

1 clear for the record, we produced these  
2 documents yesterday which is, you know, which  
3 we appreciate is after we received them but  
4 still, I appreciate that the deposition was  
5 today.

6 We did note in the letter that we  
7 produced them purely because they were  
8 independently from her attorneys used to  
9 refresh Ms. Anderson's deposition, and we did  
10 not waive any deliberative privilege.

11 I would further note just for the  
12 record that again, there are a number of  
13 documents in this case and in this deposition,  
14 that were originally deemed deliberative and  
15 that a Court in Northern District of California  
16 had since not deemed deliberative, that ruling  
17 has not been made in this case, but in the case  
18 here in the Eastern District of New York, but  
19 we still allowed for questions in a good faith  
20 effort to avoid litigation.

21 So I mean, I think we would instruct  
22 the witness at least with these notes, she can

1     answer, you know, explaining a statement, you  
2     know, or what is written here, but anything  
3     that goes to the actual underlying meeting or  
4     the substance of that meeting beyond the four  
5     corners of these documents, we would raise  
6     deliberative process privilege and instruct the  
7     witness not to answer.

8                   MR. CONNELLY:   And do you know --  
9     have the collective plaintiff attorneys given  
10    your letter to us on this -- on these  
11    particular documents, if we indicated that  
12    we're going to get back to you with our, you  
13    know, response in some fashion?

14                  MR. MARUTOLLO:   Again, I, you know,  
15    we did speak to Mr. Jeff Propoli last night on  
16    this -- on these issues.   My understanding was  
17    that there was one document that was  
18    outstanding.   There was a -- there may be a  
19    classified document that we did a little note  
20    in our letter that we were withholding, but  
21    otherwise, you know, we have kind of been -- I  
22    think we've been consistent throughout the



1 litigation about where we stand on deliberative  
2 process and I think if you need an  
3 individualized showing plaintiffs noted that in  
4 their opposition to our original motion to --  
5 for a protective order for deliberative process  
6 that we ultimately withdrew so we can be on the  
7 same page as plaintiff's counsel.

8           So from our perspective, you know, I  
9 think we are being consistent, but I would  
10 note, again as alluded to your point earlier,  
11 and particularly given the fact that there  
12 seems to be depositions scheduled every day  
13 from now until January 7, the trial date, when  
14 the trial begins, you know, we won't be  
15 producing Ms. Anderson again, you know, after  
16 the Court order, because, you know, we have  
17 asserted our privilege but we've allowed for  
18 questions to be asked during this deposition.

19           MR. CONNELLY: Okay. And the reason  
20 I had asked that was, because I don't know  
21 exactly, you know, if this is already sort of  
22 crystalized because you made your position

1 clear and we've gotten back to you and you  
2 responded or you said, well, there is no more  
3 to talk about or whether I'm in the process  
4 right now of crystallizing this to take it to  
5 the Court.

6 That's what I was trying to figure  
7 out, but if the parties have already exchanged  
8 their views on this, I would just move that to  
9 the Court as opposed to making my own pitch.

10 MR. MARUTOLLO: I honestly -- I  
11 don't mean to speak for Jeff, I know he's not  
12 here right now, but my understanding was that  
13 we produced these materials last night and I  
14 don't know if there was any issues about -- we  
15 had talked about deliberative process in full  
16 candor, but at the same time, I think we are  
17 being consistent with how we have addressed the  
18 Ramos documents as well, the formerly  
19 deliberative documents of Ramos.

20 MR. CONNELLY: All right. Well, let  
21 me ask the deponent a few questions. I may  
22 take a somewhat different tack given your

1 position on this -- on these documents in terms  
2 of how we handle them.

3 BY MR. CONNELLY:

4 Q. So if we are still on the record,  
5 let me ask you generally, for these four sets  
6 of handwritten notes.

7 Did you capture any of your own  
8 comments on these notes or do these notes only  
9 reflect comments made by others in the room for  
10 these various meetings?

11 MR. MARUTOLLO: Objection.

12 You can answer.

13 THE WITNESS: I am not entirely  
14 sure. My practice is to try to capture the  
15 flow of the conversation during a meeting to  
16 the extent that I can get it and to capture  
17 things that are relevant to me and that I would  
18 like to try to remember.

19 Sometimes I write down when I  
20 contribute something to a meeting and other  
21 times, I can't get that in.

22 BY MR. CONNELLY:

1 Q. Yeah, okay. Well, let's -- this may  
2 be slightly laborious, but we will find out,  
3 we'll see.

4 Let's start with KA-53, which I  
5 think you told us you think may have been --  
6 may relate to a meeting held, Deputy Secretary  
7 Duke and others and perhaps on May 19 and if  
8 so, that would have been a Friday?

9 A. I believe so.

10 Q. Okay. Okay. So let's try this.  
11 Why don't you just start reading -- and you're  
12 not going to be able to anticipate what I'm  
13 going to ask questions, so I'll give you a  
14 little time for that.

15 When you get to the second line and  
16 you have Section 2044, I'm going to stop you  
17 there and I will ask you what is that. And  
18 then we will see whether I can glean  
19 information that your lawyer doesn't feel is  
20 privileged in any way.

21 I also want to try to find out, you  
22 know, how often the comments on your notes are

1 your comments as opposed to reflecting a  
2 summary of what someone else said.

3 A. Okay.

4 Q. All right. So why don't you get  
5 started.

6 A. "TPS. Gene. Section 244 statute."

7 Q. And I will ask you, what is the  
8 Section 244 statute?

9 A. I am referring to Immigration and  
10 Nationality Act, Section 244, which is the TPS  
11 statute.

12 Q. And then continue, the third line  
13 begins S2.

14 A. "S2. Read TPS website. Great  
15 website. Gene. Not created out of whole air  
16 like Obama Administration did. Explained what  
17 TPS is. To be used in extreme measure,  
18 legitimate protection."

19 Q. Let me interrupt you now. Once you  
20 started, to be used in extreme measure,  
21 legitimate protection, do you recall whose  
22 comments those are that you are recording?

1           A.     I believe I was capturing things  
2     that Gene was saying.

3           Q.     Then go ahead and continue.

4           A.     "Can designate part of a country.  
5     Never been done. People from whole country get  
6     it. In this administration, want to look at  
7     parts of country."

8           Q.     What is your best recollection of  
9     who made those observations?

10          A.     This is still Gene.

11          Q.     Okay. Then you have a line break  
12     and it starts up again with S2, that would be  
13     Deputy Duke, correct?

14          A.     Correct.

15          Q.     And again, we will see if this holds  
16     up. Is it generally you think that -- you have  
17     taken line break when you are summarizing when  
18     someone else starts talking. You -- that's  
19     kind of an easy visual way to recognize when  
20     that occurs?

21          A.     I don't think that is consistent.  
22     I'm sorry. Not that easy.

1 Q. Okay. All right. Fine. So we are  
2 still on Anderson 01, we're in the middle of  
3 the page, after an empty line. Why don't you  
4 go ahead and read what follows.

5 A. "S2. Prep to make decision easier.  
6 What data can we produce about beneficiaries.  
7 Can we do all of these earlier. Practical.  
8 How can we brief in groups. S2. S1 thought  
9 our report nearly met the conditions for ending  
10 it, but because of the time ... wanted to warn  
11 people to prepare."

12 Q. Let's stop there. To your best  
13 recollection, is everything that you just  
14 related, was that a summary of things that  
15 Deputy Secretary Duke was saying?

16 A. Yes.

17 Q. And when she references our report,  
18 what report was that?

19 MR. MARUTOLLO: Objection.

20 You can answer.

21 THE WITNESS: I thought that meant  
22 the recommendation memo from USCIS to the

1 secretary.

2 BY MR. CONNELLY:

3 Q. Do you recall what was the  
4 recommendation as far as extending or not  
5 extending in that memo?

6 MR. MARUTOLLO: Again, I would  
7 object to the extent it wasn't a final  
8 memorandum, I would instruct the witness not to  
9 answer because that calls for internal  
10 government deliberations, but I don't want to  
11 testify for the witness, but I mean, if it was  
12 a final memo, then you can answer. If it  
13 wasn't a final memo, then I'd instruct you not  
14 to answer.

15 THE WITNESS: I think she was  
16 speaking about the final memo that went from  
17 James McCament to the secretary.

18 BY MR. CONNELLY:

19 Q. Okay. And what was the  
20 recommendation in that memo as far as extending  
21 or terminating?

22 MR. MARUTOLLO: Again, just to be



1 clear, I am objecting to the -- when I say  
2 final memo, just to clarify, I am referring to  
3 the final decision from the secretary on a TPS  
4 determination, not a final internal memo within  
5 USCIS to DHS.

6 So with that objection, I would  
7 argue that this question calls for internal  
8 government deliberation, and I instruct you not  
9 to answer under the deliberative process  
10 privilege unless it's a final decision from the  
11 secretary or acting secretary of Homeland  
12 Security.

13 BY MR. CONNELLY:

14 Q. Are you able to answer?

15 A. On my attorney's advice, I don't  
16 think I can answer then because this is, I  
17 believe, referring to the internal memo, the  
18 final internal memo from James McCament to the  
19 secretary.

20 Q. All right. So let's -- now we're on  
21 the top of Page 2. Why don't you pick up --  
22 and let's -- if you can acclimate yourself, now

1     when you begin reciting your notes, what is  
2     your best recollection of whose observations  
3     you are capturing?

4           A.     I believe this continues to be  
5     Deputy Secretary Duke.

6           Q.     Why don't you go ahead.

7           A.     "Say conditions are nearly there in  
8     messaging. Every expectation Haiti may not be  
9     renewed again. S1 wants to follow the law.  
10    Have someone who hates us read the report.  
11    Says ... while Haiti is still a horrible place  
12    to live, but good ... if recommends  
13    termination, has to be straightforward and  
14    sensitive to how this could be turned around.  
15    If we recommend ending, be cautious, process  
16    can't be turned on us. If we recommend ending,  
17    S1 will be inclined to follow us but be clear."

18          Q.     Let me stop you there. Your best  
19    recollection is that all of those observations  
20    were in a summary fashion capturing things that  
21    Deputy Director Duke was saying?

22                   MR. MARUTOLLO: Objection.

1           You can answer.

2           THE WITNESS:   Yes.

3           BY MR. CONNELLY:

4           Q.     Am I correct, broadly speaking, are  
5     these notes chronological?  In other words, you  
6     -- they capture -- obviously it doesn't capture  
7     the entirety of the meeting, but they capture  
8     in the order in which the observations were  
9     made?

10          A.     Yes.  The notes follow the  
11     chronological flow of the meeting.

12          Q.     Now on Page 2, the first line or the  
13     first word is Gene.  Why don't you -- go ahead  
14     and read that.

15          A.     "Gene.  We haven't tracked data.  
16     Public benefits?  We don't know."

17          Q.     I'm sorry, public benefits with a  
18     question mark after it?

19          A.     With a question mark, yes.  "We  
20     don't know.  Hey, what are you doing with your  
21     time here?"

22                   I believe this first word is during,

1 but I'm not entirely sure. "During next six  
2 months for Haiti and going forward. Have to  
3 increase reporting and metrics so we can tell  
4 American people what is happening. Not limited  
5 to TPS."

6 Q. Let's stop because you have kind of  
7 a break there. Your best recollection is that  
8 all of those observations were made by Gene  
9 Hamilton?

10 A. Yes.

11 Q. All right. Pick it up then. We are  
12 now on Page 3.

13 A. "If new designation. What can we do  
14 to gather new information. Not if it -- not if  
15 a million man hours. S1 and S2 like to make  
16 decisions on the facts."

17 Q. Let's stop there. Because we see  
18 that Gene is apparently going to say something,  
19 so does that help you in context? Could you  
20 recall whose observations those were that you  
21 just read?

22 A. I'm not entirely sure. It's not

1 Gene because he responded and it wasn't me.

2 Q. And it looks like he's responding to  
3 a woman.

4 A. Yes.

5 Q. Were there other women in the room  
6 beyond you and Deputy Secretary Duke?

7 A. Not that I recall.

8 Q. By process of elimination, again,  
9 you're not -- you can't be sure, but if you  
10 know that he wasn't directed to you, Duke was  
11 the only other woman in the room?

12 MR. MARUTOLLO: Objection.

13 You can answer. To the extent it  
14 mischaracterizes testimony. You said you don't  
15 recall if there were other women in the room,  
16 but you can answer.

17 THE WITNESS: I was going to say I  
18 mentioned before I was not entirely sure if  
19 there was anybody else in the room but I don't  
20 recall other women.

21 BY MR. CONNELLY:

22 Q. All right. So let's go ahead now in

1 the middle of the page where it begins with  
2 Gene.

3 A. "Gene. Yes, ma'am. That's the  
4 right way to do things."

5 Q. Let's me ask -- your lawyer can  
6 object or maybe he won't. Why did you capture  
7 -- I mean, these are not verbatim notes,  
8 correct?

9 A. Correct.

10 Q. Why did you capture him using the  
11 phrase, ma'am, in giving the response to  
12 whoever it was, where he's raising the points  
13 that he was addressing?

14 MR. MARUTOLLO: Objection. I mean,  
15 it was government deliberative process, but you  
16 can answer the question.

17 THE WITNESS: Well, when I take  
18 notes in meetings, I write down things that I  
19 am interested in remembering, and for some  
20 reason, this struck me as something that I  
21 wanted to remember.

22 BY MR. CONNELLY:

1           Q.     Do you recall now why it was that  
2     you thought that was still something you wanted  
3     to remember?

4                     MR. MARUTOLLO:  Objection.

5                     You can answer.

6                     THE WITNESS:  Not in particular.

7                     BY MR. CONNELLY:

8           Q.     All right.  So let's keep going.  
9     Pick it up again.  Do you know where we are?  I  
10    think we were at the line that begins "not to."

11          A.     "Not to disparage anyone in past  
12    administrations, but kind of a perfunctory  
13    decision.  Things are still bad.  Don't want to  
14    give false hope.  Don't want people to go back  
15    to war zone.  Need to use our resources wisely.  
16    Bring back programmatic integrity."

17          Q.     Do you think, is your best  
18    recollection that all of those comments were  
19    made by Gene Hamilton?

20          A.     Yes.

21          Q.     Okay.  So let's pick up on the next  
22    line.

1           A.        "Is the population" -- I can't read  
2       the next word, my best guess is trying, but I'm  
3       not sure. "Is the population trying here?"

4           Q.        With a question mark, correct?

5           A.        Yes. "If so. If -- I don't know  
6       the next word. It begins with a P.

7           Q.        Okay.

8           A.        "If" something "don't."

9           Q.        So let me ask, is your best  
10      recollection that that would -- that those were  
11      continued observations by Gene Hamilton?

12          A.        Yes.

13          Q.        And when you captured, is the  
14      population trying here, do you recall, was he  
15      referring to the Haitians who were outside of  
16      Haiti, presumably largely in the U.S., is that  
17      the reference to trying here?

18                 MR. MARUTOLLO: Objection. Again, I  
19      think that goes to internal government  
20      deliberations, and it goes beyond the four  
21      corners of the document and it also goes to  
22      speculation as to what Mr. Hamilton was



1 referring to, if anything.

2 So I'd instruct the witness not to  
3 answer.

4 BY MR. CONNELLY:

5 Q. Is the, you know, obviously, you  
6 know, it's ambiguous, next observation. If so,  
7 if and then the word, five or six letter word  
8 beginning with P, is not decipherable, don't,  
9 do you have a recollection from those cryptic  
10 notes in terms of what the actual words used by  
11 Mr. Hamilton were?

12 MR. MARUTOLLO: Objection. Again,  
13 same objection about internal government  
14 deliberations. I mean, to the extent you  
15 recall based on these notes and what is said in  
16 the notes, you can answer but otherwise, I'd  
17 instruct you not to answer.

18 THE WITNESS: I think, at least this  
19 is the population trying here was referring to  
20 the population being TPS beneficiaries  
21 generally. This part of the meeting was  
22 talking about TPS generally, not specifically

1 Haiti, so I think the population is meaning TPS  
2 beneficiaries was my understanding.

3 BY MR. CONNELLY:

4 Q. All right. And now we are down to  
5 the last three lines which appear to begin S2,  
6 which would be Deputy Secretary Duke. But go  
7 ahead and read.

8 A. "S2. Really tries to get the facts.  
9 And apply them to the law. Now that we" --  
10 "now that we're looking at this afresh."

11 Q. We are on Page 4 now which begins  
12 with the word James.

13 A. "James. DOS uses as foreign policy.  
14 S2. Can we support keeping state in their  
15 lane?"

16 Q. And when DOS is a reference to what  
17 organization?

18 A. Department of State.

19 Q. And is this in the context -- is  
20 this when DOS uses -- ordinarily, you would  
21 expect to find an object there, is this  
22 instance in the context of TPS, or do you know?

1 Again, I don't want -- just what was said by  
2 James, because I am guessing, this obviously  
3 captures in a summary fashion, but not all  
4 together.

5 MR. MARUTOLLO: Again, I would  
6 request that Ms. Anderson not answer that  
7 question as it goes into internal government  
8 deliberations and instruct her not to answer.  
9 She can testify about the sentence that she  
10 wrote in her notes, but apart from that, to the  
11 extent it goes further into what occurred in  
12 the conversation, I instruct Ms. Anderson not  
13 to answer.

14 THE WITNESS: I think this note that  
15 I captured that states DOS uses as foreign  
16 policy, my understanding was that James was  
17 referring to TPS.

18 BY MR. CONNELLY:

19 Q. All right. And then go ahead and  
20 proceed.

21 A. "S2. Can we support keeping state  
22 in our lane? Need."

1           Q.       I'm sorry. I had used that as an  
2       earlier example of my being more interested.

3                   MR. CONNELLY: And, Joe, I don't  
4       want to keep hitting my head against the wall.  
5       So I will try a question and you can tell me if  
6       I am hitting the wall again.

7                   BY MR. CONNELLY:

8           Q.       Do you -- did you have an  
9       understanding of what the phrase "keep state in  
10      their lane" conveyed at the time? By that, I  
11      mean, you are obviously capturing a summary of  
12      the conversation, not a verbatim.

13                   Can you tell me from your summary  
14      note what Duke said that you partially captured  
15      with the quote, "can we support keeping state  
16      in their lane?"

17                   MR. MARUTOLLO: I mean, I would  
18      object first on the ground of the questioning  
19      vague, but again, I would assert that this  
20      calls for internal government deliberations as  
21      it raises a question about what Secretary Duke  
22      was saying, the substance of what she was

1 saying, rather than a question about notes that  
2 are on the page that Ms. Anderson kept, so I  
3 would instruct Ms. Anderson not to answer the  
4 question on the deliberative process privilege.

5 BY MR. CONNELLY:

6 Q. So with that instruction, let's  
7 continue. Why don't you go ahead and continue  
8 reading what is on the page.

9 A. "Need to be able to point back to  
10 the statute. Everything that supported the  
11 decision. SS came over without Tillerson  
12 actually seeing it."

13 Q. Let's stop there. Best  
14 recollection, are these all comments that were  
15 made by Duke?

16 MR. MARUTOLLO: Objection to the  
17 extent you know and given our earlier objection  
18 about deliberative process, you can answer the  
19 question.

20 THE WITNESS: I can't say with  
21 certainty that these were all made by Deputy  
22 Secretary Duke. The one with S2 before it was.

1 The next statement, "need to be able to point  
2 back to the statute," my best recollection is  
3 that she probably made that statement as well.  
4 Similarly with the next one, "everything that  
5 supported the decision," I am much less certain  
6 about the next statement that, "SS came over  
7 without Tillerson actually seeing it."

8 BY MR. CONNELLY:

9 Q. Let me stop you for a second.

10 MR. CONNELLY: I am going back to  
11 that same line, Joe, so you can be sensitive.

12 MR. MARUTOLLO: Okay. Thank you.

13 BY MR. CONNELLY:

14 Q. When you wrote down, "S2. Can we  
15 support keeping state in their lane?"

16 Can you tell me what you meant when  
17 you wrote those words down. What did you --  
18 what did you mean and what were you trying to  
19 remember with that note?

20 MR. MARUTOLLO: Again, I would  
21 object. So that it calls for internal  
22 government deliberations. You know, I think --

1 I mean to the extent -- I would instruct the  
2 witness to answer only to the extent you are  
3 talking about a note that you took and then the  
4 fact that you put -- you handwrote something  
5 onto a document, but to the extent it goes to  
6 the actual deliberations and the actual  
7 discussion with Secretary Duke, I instruct you  
8 not to answer, so with that objection, I think  
9 you can answer that question with that  
10 limitation.

11 THE WITNESS: I wanted to remember  
12 that S2 had raised a question regarding, can we  
13 support keeping state in their lane, which to  
14 me meant, can we look into how we can have  
15 state focus on providing country conditions as  
16 opposed to using TPS as a foreign policy tool.

17 BY MR. CONNELLY:

18 Q. Let me -- what you had previously  
19 read, there is a reference to SS came over  
20 without Tillerson.

21 What is SS a reference to?

22 A. South Sudan.

1 Q. I'm sorry. I'm not quite sure where  
2 we -- did we -- have you read the remainder of  
3 this page which starts with Gene?

4 A. No, not yet.

5 Q. Okay.

6 A. "Gene. S1 not hesitant to make TPS  
7 designations when warranted. S2. He's so  
8 neutral. We need to know who is here, what  
9 they are doing, are they being productive."

10 Q. The next page begins with James.

11 A. Yes. "James."

12 Q. Go ahead.

13 A. "In January. Which ones up for  
14 review and send groups up. What can we bundle.  
15 Send up chart calendar. Expand chart. New  
16 metrics. Specific reasons for designating that  
17 can be measured for future designations.  
18 Deviation from starting point."

19 Q. Best recollection, that all that you  
20 just related were observations made by James?

21 A. I'm not sure. I can't tell.

22 Q. Okay.



1 A. "On I-821 form."

2 Q. What is that?

3 A. That is the TPS application.

4 Q. All right.

5 A. "On I-821 form. What other data  
6 could we gather and put into our systems to  
7 gather merit based and contributions to  
8 society."

9 Q. Do you have a recollection of whose  
10 observation that was?

11 A. No. I'm not sure who said that.

12 Q. What did you mean -- or what was the  
13 purpose for you to capture the observation  
14 about gathering merit based and contributions  
15 to society?

16 MR. MARUTOLLO: Objection. Again, I  
17 think that still goes to something beyond this  
18 document in terms of calling for internal  
19 government deliberations so I instruct  
20 Ms. Anderson not to answer.

21 BY MR. CONNELLY:

22 Q. Go ahead. You can continue reading

1 on the bottom of the page.

2 A. "New data collecting proposal to S2.

3 Present a plan by" -- I can't read the next

4 couple of words, "by the" something "of"

5 something "June/July for a plan to gather new

6 data as part of Sudan, South Sudan briefing.

7 Prospective for new form. Late June/early July

8 proposals for more data collection. Check with

9 Kathy on info."

10 Q. The reference to Kathy, is that

11 Kathy Kovarik?

12 A. Kathy Nuebel Kovarik.

13 Q. And the last thing that you just

14 read which concludes your handwritten notes, do

15 you have a recollection of whose observations

16 those were?

17 A. I'm sorry. I was looking at -- can

18 I go back for one second.

19 Q. Sure.

20 A. This Anderson 0005 that -- the page

21 that begins James --

22 Q. Uh-huh.

1           A.       -- at the top. I think that  
2       reflects from there on, a separate conversation  
3       that I had with James immediately following the  
4       broader meeting, so I think that -- the end of  
5       the Page 00004 was the end of the group  
6       meeting.

7           Q.       And then near the end of the  
8       separate meeting with James, there is a  
9       reference to a new form.

10                   Can you tell me what the new form  
11       was?

12           A.       Where are you?

13           Q.       About five lines from the very end  
14       on 06. Prospective for new form.

15           A.       I think that was continuing to talk  
16       about the possibility of amending the TPS  
17       application form.

18           Q.       Is the larger meeting, not the James  
19       meeting afterwards, but is this meeting held  
20       perhaps on May 19 which included Secretary Duke  
21       and Gene Hamilton, is this the meeting that  
22       left you as you described in your e-mail

1     fuming?

2                   MR. MARUTOLLO:  Objection.

3                   You can answer.

4                   THE WITNESS:  This is the meeting  
5     that I was referring to in that May 20 e-mail,  
6     yes.

7                   BY MR. CONNELLY:

8           Q.     What was it about the meeting that  
9     left you fuming?

10                  MR. MARUTOLLO:  Objection.  I'm  
11     going to direct the witness not to answer, that  
12     would go to the deliberations that occurred  
13     during the meeting, the substance of which  
14     would be subject to deliberative process  
15     privilege.

16                  MR. CONNELLY:  Okay.  Well, that --  
17     actually, that, among the many disagreements we  
18     have, that is probably the best example and we  
19     will probably run up to the judge in terms of  
20     who is right or wrong in terms of how much  
21     right we have to probe this witness's  
22     understanding of what happened and her reaction

1 to it.

2 MR. MARUTOLLO: Again, that's fine,  
3 I mean, we are happy to go to the Court, but at  
4 the same time, I mean, we are not pretending to  
5 bring Ms. Anderson back, because, I mean, if  
6 we're going to go --

7 MR. CONNELLY: I'm going to do it  
8 today.

9 MR. MARUTOLLO: Right, I mean, at  
10 the same time, look, if there is other -- I  
11 mean, I realize there have been a number of  
12 issues that I have instructed the witness not  
13 to answer, I mean, not sure what exactly we're  
14 going to go to the Court on, which one or which  
15 particular question, but...

16 MR. CONNELLY: I mean, I'm not going  
17 to give the guy a long laundry list and we will  
18 kind of tighten it up and give him several at  
19 some point this afternoon.

20 MR. MARUTOLLO: Again, that's fine.  
21 I think we are in, like, the fifth hour, so I  
22 mean -- of the deposition.

1 MR. CONNELLY: Not quite, but okay.

2 Who is counting?

3 MR. MARUTOLLO: We're getting close,  
4 right? But, you know, again, we are happy if  
5 you want to talk off the record, too, about  
6 other compromises that could be reached, we are  
7 happy to go to the Court.

8 MR. CONNELLY: No, either she is  
9 here or she comes back or she doesn't. We will  
10 figure it out. We will see where we go.

11 MR. MARUTOLLO: And again, the  
12 reason I bring up the time though is that if  
13 the Court is not available now and if we wait  
14 until the end, we're not going to bring the  
15 witness back.

16 MR. CONNELLY: That's my bad. Maybe  
17 the Court will still tell you to bring her  
18 back, but I understand, that is my risk if that  
19 happens.

20 MR. MARUTOLLO: Right.

21 BY MR. CONNELLY:

22 Q. Okay. Let's go now to -- let me ask

1     our last question, perhaps getting the same  
2     objection.

3                 Do you recall whether any of the  
4     lines that you captured here in these  
5     observations or summaries that -- were any of  
6     these observations the basis for your fuming  
7     after the meeting?

8                 MR. MARUTOLLO:  Objection.

9                 You can answer.

10                THE WITNESS:  I think that many of  
11     the notes that I capture here formed the basis  
12     for my frustration after the meeting, yes.

13                BY MR. CONNELLY:

14                Q.     I take it -- I should ask the  
15     question, then you can object.

16                And more specifically, what in the  
17     notes or -- led to your frustration or your  
18     fuming?

19                MR. MARUTOLLO:  Objection.

20                You can answer that.

21                THE WITNESS:  I think broadly, it  
22     was a general sense coming out of the meeting

1 of the direction of the TPS program and the  
2 types of information that was going to be  
3 considered as part of TPS.

4 BY MR. CONNELLY:

5 Q. Let's go now to KA-51, which your  
6 best guess might have occurred perhaps on  
7 Monday, May 22, when you thought that perhaps  
8 the public announcement of the extension was  
9 made.

10 A. I have it in front of me.

11 Q. Okay. So the first line, I will  
12 quote to you and then ask you. It says: "End  
13 close to 7/23," I will interpret that as July  
14 23.

15 What is that a reference to?

16 MR. MARUTOLLO: Again, objection.

17 Without revealing any internal government  
18 deliberations, you can explain what that is  
19 referencing.

20 THE WITNESS: I'm not entirely sure  
21 but my best guess is that that is when we  
22 expected that the 50-day reregistration period



1 for Haiti TPS would be likely to end.

2 BY MR. CONNELLY:

3 Q. All right.

4 A. Under the extension that was being  
5 announced.

6 Q. Why don't you go ahead now and read  
7 the bullet points or the tick marks on the  
8 first page.

9 A. "S1 made decision on Section 244,  
10 nothing more. Conditions have substantially  
11 improved since 2010. Congress asked us to look  
12 at conditions that led to initial designations  
13 and not at other conditions. Understand some  
14 fine lines to draw there. S1. Commitments and  
15 statements from Haitian government that they  
16 want their nationals back to help rebuild.  
17 These are precisely the entrepreneurial people.  
18 Some language skills. S1 highly encouraging to  
19 pack up."

20 Q. And S1 is a reference to then  
21 Secretary Kelly?

22 A. Yes.

1 Q. Do you have a recollection as to  
2 whose observations these are on this page?

3 A. I don't.

4 Q. Do you have in mind, even though you  
5 have already indicated you can't be quite  
6 precise of the date from the notes, do you have  
7 a recollection of who attended this meeting?

8 A. This was I think -- it was called an  
9 embargoed media call, so it was just prior to  
10 the public announcement of the Haiti TPS  
11 extension decision. So it was a public call  
12 that many media individuals participated in.

13 I went to the NAC, the DHS  
14 headquarters, to be part of the call and speak  
15 on behalf of the government. I was there, Gene  
16 Hamilton spoke on the call, Brandon Prelogar  
17 spoke on the call, and then there were a host  
18 of communications individuals there for DHS as  
19 well.

20 Q. Does this page capture things that  
21 were said on the call by someone in the  
22 government?

1           A.       That is my best guess, but it's hard  
2   to know for certain.

3           Q.       And then I realize you've already  
4   told me this but I can't help myself, but you  
5   don't -- as we sit here this afternoon, you are  
6   uncomfortable, you know, giving your best  
7   estimate of who it was, whose observations you  
8   are capturing on this first page?

9           A.       I don't remember who was saying  
10   this.

11          Q.       Okay. Let's go to Page 2.

12                   Let me ask you again, now that  
13   you've put this in context, so all of these  
14   notes which run four pages, all of these will  
15   be notes that occurred contemporaneously during  
16   the course of this embargoed media call which  
17   occurred shortly before the public  
18   announcement?

19          A.       I think so.

20          Q.       Okay.

21          A.       "Evidence to show Haiti on track to  
22   recover and why six months. Gene. FRN will

1 outline conditions. Must look at statute. Can  
2 be differing views. No, they are not ideal as  
3 compared to United States. Six months  
4 warranted now. But may not be the case in the  
5 future." We are going to make the hard  
6 decisions. Congress -- "we are going to make  
7 the hard decisions Congress requires us to  
8 make. S1 felt six months. Draw conclusion in  
9 the future. Will look at each country and  
10 analyze conditions and make independent  
11 informed analysis. Crime?"

12 Q. I'm sorry. Let's stop there. Do  
13 you have a recollection, was this a -- let me  
14 first ask you.

15 In this embargoed media call, does  
16 there come a point where people on the call are  
17 allowed to ask questions?

18 A. Yes, there was.

19 Q. Okay. And do you have any  
20 recollection off of this note: "Crime?" Was  
21 that an issue that was raised by someone in the  
22 media or do you have a recollection?

1           A.       What issue?

2           Q.       Crime?

3           A.       Oh, crime. I would guess yes, but  
4       it is possible that knowing that it would  
5       likely be a question that was affirmatively  
6       raised on the call, but my assumption is that  
7       somebody asked on the call.

8           Q.       Why don't you go ahead and read that  
9       last four or five lines of Page 9.

10          A.       "Crime? S1 made his decision on  
11       factors outlined in 244." S1 asked for -- "S1  
12       asks for info. Is about programmatic  
13       integrity. Common sense questions. Like  
14       crime. Employed in school. U.S. has not  
15       previously collected or reported on previously.  
16       S1 needs to be able to answer to American  
17       people. Static conditions in Haiti independent  
18       of earthquake."

19          Q.       Let's stop there. Do you know  
20       whether the government has someone record and  
21       type up the -- something closer to a verbatim  
22       when these embargoed media calls are made?

1 MR. MARUTOLLO: Objection.

2 You can answer to the extent you  
3 know.

4 THE WITNESS: I don't know if there  
5 is a record kept of it.

6 BY MR. CONNELLY:

7 Q. Do you recall how the portion that  
8 you just read to us which relates to quote  
9 unquote common sense and then crime and then  
10 employed and then in school and then the  
11 observation U.S. has not previously collected  
12 or reported on properly?

13 A. I believe that was previously.

14 Q. Previously. Okay. First of all,  
15 are these, you know, shorthand concepts of  
16 crime, employment and schools, do you recall,  
17 was that -- was the actual observation, was  
18 that about TPS people or Haiti or other  
19 countries who are in the U.S.?

20 MR. MARUTOLLO: Again, only -- I  
21 would object but only to the extent that the  
22 answer refers to internal government

1 deliberations that took place outside of this  
2 media embargo, in which media were not  
3 presented. If media was present during -- and  
4 that answers his question, then you can answer  
5 the question assuming that the media were  
6 present at that point.

7 THE WITNESS: Yes. I believe this  
8 was reflecting things that were said on the  
9 media call and I think that crime, employed in  
10 school, were referring to looking at the TPS  
11 population in the United States or the TPS  
12 population generally.

13 BY MR. CONNELLY:

14 Q. Does the characteristics of the TPS  
15 population in the United States, is that a  
16 factor, is that a relevant factor at all in  
17 terms of the continuing conditions in the  
18 country itself?

19 MR. MARUTOLLO: Objection. I think  
20 that, first, again, Ms. Anderson is not a  
21 30(b)(6) witness and that calls for more of a  
22 policy assessment and second, I would object to

1 the extent it calls for information that is  
2 related to internal government deliberations,  
3 but with those two limitations in mind, you can  
4 answer the question.

5 THE WITNESS: Can you state the  
6 question one more time.

7 BY MR. CONNELLY:

8 Q. Sure. I would rather make the  
9 reporter find it. I might change it, so you  
10 can answer this one.

11 In your personal efforts, you know,  
12 in your involvement over several years with TPS  
13 issues including determinations of TPS or  
14 determinations of extensions or redesignations  
15 of TPS, a part of that process, as I think we  
16 have established, is a factor, not the only  
17 factor, but a factor in -- especially in  
18 extensions is the current conditions in the  
19 foreign country, correct?

20 MR. MARUTOLLO: Objection. First,  
21 again, I -- it assumes facts not in evidence,  
22 and I think it mischaracterizes the testimony



1 as well, and I still assert deliberative  
2 process privilege but you can answer the  
3 question.

4 THE WITNESS: Looking at current  
5 conditions in a country is part of the TPS  
6 review process.

7 BY MR. CONNELLY:

8 Q. Okay. Prior to the May of 2017, had  
9 you ever used any statistics or information  
10 about crime or employment or schooling in the  
11 U.S. for TPS people who were displaced in the  
12 U.S., as a part of your gathering information  
13 to make a determination about whether a TPS  
14 status should be extended?

15 MR. MARUTOLLO: I would just object  
16 again to the extent the answer calls for  
17 information related to internal government  
18 deliberations, I instruct you not to answer  
19 that portion. Otherwise, you can answer the  
20 question. Although I note also an objection on  
21 vagueness grounds.

22 THE WITNESS: I think there were

1 several pieces in there that make it difficult  
2 for me to give one clear answer to the  
3 question. Could you break it down a little  
4 bit?

5 BY MR. CONNELLY:

6 Q. I could. You know what, let me -- I  
7 mean, it's fair for me to do this, but I mean,  
8 rather than for me to guess, where does your  
9 confusion lie? Where is it -- how is it easier  
10 for you to answer the question if I break it  
11 down?

12 MR. MARUTOLLO: Objection. I think  
13 you can answer that question, but I mean, it's  
14 ultimately the counsel's deposition, but you  
15 can answer the question.

16 THE WITNESS: I am struggling with  
17 kind of the piece in my previous experience,  
18 what are you talking about, also TPS people  
19 displaced in the United States, I'm not sure  
20 what you mean by that exactly.

21 BY MR. CONNELLY:

22 Q. Thank you. That's helpful because I

1 can do a better job.

2 Talking about the topics of crime,  
3 employment and schools, was that a reference to  
4 trying to gather statistics on those topics  
5 relating to people who were enjoying TPS status  
6 in the United States?

7 MR. MARUTOLLO: Objection. Again,  
8 to the extent it calls for internal government  
9 deliberations, I instruct you not to answer,  
10 but otherwise, to the extent you understand the  
11 question, you can answer the question.

12 THE WITNESS: I do think those were  
13 referring to characteristics of individuals who  
14 held TPS status.

15 BY MR. CONNELLY:

16 Q. Okay. And prior to this time, in  
17 your work generating determinations about  
18 designations or redesignations or extensions,  
19 had you ever considered or used any of those  
20 factors in the work that you did?

21 MR. MARUTOLLO: Objection. I would  
22 still first argue vague, and then to the extent

1 -- and compound, and to the extent this calls  
2 for internal government deliberations, I still  
3 instruct you not to answer that question, but  
4 you can answer it with that limitation.

5 THE WITNESS: Prior to this May  
6 Haiti TPS extension determination process, I  
7 don't recall looking at the criminality, the  
8 rate of employment or the rate of public school  
9 attendance of TPS beneficiaries in order to  
10 make a recommendation on whether TPS should be  
11 designated, extended or terminated.

12 THE VIDEOGRAPHER: Can we go off the  
13 record for a second so I can swap tapes.

14 MR. CONNELLY: Sure.

15 THE VIDEOGRAPHER: We're going off  
16 the record.

17 The time is 16:11.

18 (A short recess was taken.)

19 THE VIDEOGRAPHER: We're going back  
20 on the record.

21 The time is 16:19.

22 BY MR. CONNELLY:

1           Q.     Could you go to KA-52. That's the  
2     third of your four sets of handwritten  
3     documents, and I think you told us before that  
4     you best -- as you can place this, this meeting  
5     would have occurred perhaps sometime before the  
6     FRN was issued on May 24?

7           A.     I believe it was, but the more  
8     important piece of it, I think it was after the  
9     decision was made.

10          Q.     That decision was that the  
11     designation would be extended?

12          A.     For six months.

13          Q.     For six months, just for Haiti.

14          A.     Yes.

15          Q.     I'm sorry, if you told me, I don't  
16     recall.

17                     Who was at this meeting?

18          A.     This was a meeting convened by  
19     Secretary Kelly and again, it was to talk about  
20     TPS more broadly than just Haiti. It was  
21     following this scramble to make the TPS  
22     decision about Haiti and looking at the process

1 in general going forward.

2 Q. I'm going to ask you -- we may not  
3 cover all of this, but why don't you go ahead  
4 and read the first page where there are four  
5 asterisked items.

6 You know what, after the first  
7 asterisk, I will have you stop because you have  
8 a page break and perhaps that suggests a  
9 different -- let's get started.

10 A. "Temporary in the title. But no  
11 other clear guidance in statute to indicate how  
12 long it can go on. 18 months at a time.  
13 Temporary element. But nothing that says how  
14 many times can extend. And in" --

15 Q. Could that be fact?

16 A. Yes. "And, in fact, discretionary  
17 in initial designation. But not in whether to  
18 extend. Must continue as long as conditions  
19 are met and no limit on that."

20 Q. Do you recall whose observations  
21 those were?

22 A. Looking at this first page in the

1 items that are asterisked, my best recollection  
2 is that these were points that I was thinking  
3 about prior to this meeting that if I had an  
4 opportunity to make in the meeting, I might  
5 make. I'm not sure that these were statements  
6 made in the meeting.

7 Q. All right. Let's go to the second  
8 asterisk in the middle of the page.

9 A. "Need to look back at last  
10 redesignation for relevant condition."

11 Q. Continue to the third asterisk.

12 A. "Can look at subsequent events that  
13 compound effects of initial event and prevent  
14 country from recovery. Food insecurity."

15 Q. And the final asterisk on the first  
16 page?

17 A. "State. Political tool. Valuable  
18 partner in understanding conditions on the  
19 ground since they are there. Usually solid  
20 analysis of country conditions. Then include  
21 discretionary factors. Helpful for us to know  
22 their position especially in initial. When

1 have discretion. And good to understand the  
2 bilateral issues. For example, work with  
3 government on repatriation. Bundling where we  
4 can. Consider in relationship but case by  
5 case."

6 Q. And then the last asterisk which  
7 finishes Page 2 or Anderson 13 is the Bates  
8 number.

9 A. "Could include what we do have in  
10 memo. Demographic data, gender, age, resident  
11 status at time of application, travel to  
12 country, remittances, standard section in memos  
13 could continue to enrich" -- I'm not sure of  
14 the next word: "On time."

15 Q. Is your best recollection that all  
16 of these points that you just read were things  
17 that you had arranged in your own mind and  
18 committed to writing prior to the meeting?

19 A. Yes. I think these were my thoughts  
20 of contributions I might make in the meeting if  
21 there was an opportunity.

22 Q. Did you ever have an opportunity to



1 make any of these points?

2 MR. MARUTOLLO: Objection. To the  
3 extent it calls for internal government  
4 deliberations, I would instruct you not to  
5 answer because it goes to the substance of what  
6 was actually discussed at the meeting but to  
7 the extent, it's reflected in your subsequent  
8 notes, you can answer that as well.

9 THE WITNESS: I don't know  
10 specifically. I contributed to the meeting,  
11 we'd have to walk through the notes and see how  
12 they match up. I'm not sure.

13 BY MR. CONNELLY:

14 Q. Besides yourself and Secretary  
15 Kelly, who else was at the meeting?

16 A. I attended with James McCament for  
17 USCIS. I remember that Gene Hamilton was  
18 there. I don't remember other specific  
19 individuals off the top of my head although I  
20 think the office of general counsel for DHS was  
21 represented.

22 Q. All right. Let's do this. I have a

1 curiosity about a couple of things, so I'm  
2 going to go to those.

3 On page -- the third page which is  
4 Anderson 14.

5 A. Okay.

6 Q. Near the bottom, it says: "How do  
7 you send CA home?"

8 See that?

9 A. I do.

10 Q. What is CA a reference to?

11 A. Central Americans.

12 Q. Do you have a recollection of whose  
13 observation or question that was?

14 A. I believe that that was Secretary  
15 Kelly.

16 Q. And then why don't you go ahead and  
17 read the entirety of that little section.

18 A. "How do you send Central Americans  
19 home. Been here for so long. Work with  
20 Congress to fix. Can't kick people out after  
21 15 years. Haitians saying long roots here."

22 Q. Could you go back to the top of that

1 page and just go ahead and read it to yourself.  
2 It will be faster, but anytime you believe that  
3 the observations were made by Secretary Kelly,  
4 point those out and I will have you read them.

5 A. I'm sorry, the top of Page 14?

6 Q. Yes. I mean, just begin on the top  
7 of Page 14, if you would like to silently go  
8 through it.

9 A. "Understanding 18 months."

10 Q. No, no. I'm sorry.

11 A. I was going to say I believe that  
12 this was Secretary Kelly's opening statement.  
13 "Understanding 18 months only." I believe that  
14 was Secretary Kelly.

15 Q. Okay.

16 A. Other than James's response, "yes."  
17 I believe that these next things were also  
18 reflecting Secretary Kelly. "People recovered  
19 in short term. Temporary." I don't know,  
20 "this temp, temporary, NAT." I'm not sure what  
21 I meant. "Up to me." That was Secretary  
22 Kelly.

1 I believe this was all from  
2 Secretary Kelly. "Compounding events, bodies  
3 all buried." I don't know what "O/C" means.  
4 "Armed conflict. By definition not temporary."

5 So then you have a break where it  
6 looks like Gene made a comment and then again:  
7 "How do you send Central Americans home" was  
8 Secretary Kelly, as I mentioned before.

9 Q. Do you happen to recall what you  
10 meant when you recorded "bodies all buried?"

11 MR. MARUTOLLO: Objection.

12 You can answer.

13 THE WITNESS: I think there must  
14 have been some kind of example talking about,  
15 as mentioned before, compounding events, and  
16 then in that discussion of looking at whether  
17 the bodies were all buried or not. I don't  
18 know more than that. I think it was an  
19 example.

20 On Page 15, I'm looking at Page 15.

21 BY MR. CONNELLY:

22 Q. Okay.

1           A.       I think that at least from the  
2   beginning of the page through: "Sunset clause.  
3   Would be good but Congress has no moral  
4   courage." I believe that whole part of the  
5   page is Secretary Kelly.

6           Q.       What are the observations -- what  
7   did you mean by writing down: "Why not make  
8   them all legal."

9                   MR. MARUTOLLO: Objection. Again,  
10   to the extent it calls for internal government  
11   deliberations, I ask you not to answer, that's  
12   under the deliberative process privilege, but  
13   if you can answer that question with that  
14   limitation, you can do so.

15                  THE WITNESS: I think Secretary  
16   Kelly was musing about steps that Congress  
17   could take related to TPS.

18                  I'm not sure about this line that  
19   looks like it begins SUM. I'm not sure who  
20   said that, but the next line: "Why did S1  
21   extend without thinking about it," was  
22   Secretary Kelly.

1 BY MR. CONNELLY:

2 Q. Is S1 a reference to Secretary  
3 Kelly?

4 A. I think it's a reference to past  
5 secretaries of Homeland Security.

6 Q. Is your note capturing what  
7 Secretary Kelly used? In other words, what did  
8 you mean by the former Homeland Security  
9 secretaries extended without thinking about it?

10 MR. MARUTOLLO: Objection.

11 You can answer.

12 THE WITNESS: My note captures what  
13 I believe Secretary Kelly asked the question,  
14 why did previous secretaries extend without  
15 thinking about it. And then I think that's --

16 BY MR. CONNELLY:

17 Q. Was there a response?

18 MR. MARUTOLLO: Objection. I mean,  
19 if -- to the extent it calls for internal  
20 government deliberations, I instruct you not to  
21 answer. To the extent it's on your notes, I  
22 think that's fair for you to answer.

1 THE WITNESS: I think there was  
2 discussion following that question that is not  
3 reflected in my notes.

4 MR. CONNELLY: Fair game for me,  
5 Robert, or do you view that as deliberative?

6 MR. MARUTOLLO: I still think any  
7 substantive discussions at the meeting that are  
8 not reflected in these notes would be  
9 deliberative. I mean, we would maintain our  
10 objection.

11 MR. CONNELLY: All right.

12 BY MR. CONNELLY:

13 Q. Let's look, if you would, let's move  
14 along to 16, the next page, in the middle of  
15 the page, there is a reference to Haitian  
16 ambassador or AMB, which I would interpret as  
17 ambassador.

18 A. Ambassador, yes.

19 Q. Could you read that?

20 A. "Haitian ambassador. They had" -- I  
21 haven't been able to figure out this word that  
22 begins with S. "They have" blank "and thought

1 it would be automatic. Not a bad people but  
2 they are welfare recipients. James. Yep.  
3 Upper one-half percent."

4 Q. So the comment yep, presumably that  
5 was made by James?

6 A. Yes.

7 Q. The rest of the comments that you  
8 just read, do you recall whose observations  
9 they were?

10 A. Secretary Kelly.

11 Q. And what did you mean by "they are  
12 not a bad people but they are welfare  
13 recipients, "in taking that note down. Was  
14 that a reference to Haitians in the U.S.?

15 MR. MARUTOLLO: Again, I would  
16 object to the extent it calls for internal  
17 government deliberations and instruct you not  
18 to answer under the deliberative process  
19 privilege and also to the extent it calls for  
20 speculation. To the extent it's explaining  
21 what this note meant, we would permit  
22 Ms. Anderson to answer.



1 THE WITNESS: I wrote this down to  
2 remember what Secretary Kelly said.

3 BY MR. CONNELLY:

4 Q. Is that a -- did you capture  
5 everything he said or is this just a summary of  
6 this particular topic?

7 MR. MARUTOLLO: Objection.

8 You can answer.

9 THE WITNESS: Certainly, in general.  
10 My notes don't capture every word that was  
11 said, so I can't guarantee that I captured  
12 every word.

13 BY MR. CONNELLY:

14 Q. But to the extent you can recall and  
15 that the note is refreshing your recollection,  
16 which apparently was your purpose of using  
17 them, the reference to "not a bad people but  
18 they are welfare recipients," do you recall  
19 whether that was -- whether that was  
20 articulated that that was a reference to  
21 Haitians in the U.S. as opposed to Haitians  
22 living in Haiti?

1 MR. MARUTOLLO: Objection.

2 You can answer.

3 THE WITNESS: I understood it to  
4 mean Haitians generally.

5 BY MR. CONNELLY:

6 Q. What about the reference to upper  
7 half percent? What did you mean by capturing  
8 that observation?

9 MR. MARUTOLLO: Same objection as  
10 earlier related to deliberative process, but  
11 you can answer.

12 THE WITNESS: Best I can recall,  
13 Secretary Kelly was saying something about the  
14 upper one-half percent of Haitian society and  
15 I'm not sure. I can't recall what he meant by  
16 that or why he was referencing that.

17 BY MR. CONNELLY:

18 Q. Okay. Let's -- because the  
19 remainder of the notes I think largely cover  
20 countries other than Haiti, I think we will --  
21 I'll forego having you review it.

22 A. Okay.

1 Q. Let's go to the very last page of  
2 your notes, KA-50, which are the ones that were  
3 -- pretty clearly seem to be on May 31, 2017?

4 A. Yes.

5 Q. It also references Haiti TPS  
6 stakeholder call. Is that unique or is that  
7 something that has a recurring call?

8 MR. MARUTOLLO: Objection. Again, I  
9 instruct the witness to answer only to the  
10 extent you know as a fact witness rather than  
11 as a 30(b)(6) witness for anything else.

12 THE WITNESS: It's a common practice  
13 for USCIS after any TPS decision is made, to  
14 host a call and invite TPS stakeholders to call  
15 in and get information about the decision and  
16 ask questions.

17 BY MR. CONNELLY:

18 Q. Who would the stakeholders be?

19 A. They are often NGOs or legal service  
20 providers, individuals can call in. Sometimes  
21 you have individuals who have TPS, any members  
22 of the public who are interested in the TPS

1 decision.

2 Q. So this would be obviously not just  
3 an internal government call, but would include  
4 third parties and outsiders?

5 A. Correct.

6 Q. Did you participate in this call?

7 A. Yes, I did.

8 Q. Have you regularly participated in  
9 calls like this?

10 A. Yes.

11 Q. And then you have Q&A. Tell me,  
12 well, why don't you read your middle note and  
13 then I will ask you a little bit about it.

14 A. "Haitian community disappointed for  
15 only six months as opposed to 18 months. Cruel  
16 to require fee for six months. Also  
17 disappointed. Kathy asked for criminal  
18 background when statute allows for two  
19 misdemeanors."

20 Q. Go ahead.

21 A. "To get auto extension, must request  
22 new EAD and pay the fee."

1           Q.     Do you have a recollection of about  
2     how long this call lasted?

3           A.     They usually last approximately an  
4     hour. I don't know for sure.

5           Q.     Do you know whether any government  
6     agency makes a transcript or keeps a recording  
7     of these calls?

8           MR. MARUTOLLO: Objection.

9           You can answer.

10          THE COURT: Our USCIS, I think it's  
11     actually changed titles but the customer --  
12     customer service and public engagement  
13     directorates at least at this time hosted these  
14     calls, and I know they provide a readout of the  
15     call so there should be some record. I don't  
16     know that it is a transcript, but there should  
17     be some more official record of the call.

18          BY MR. CONNELLY:

19          Q.     So obviously, your little summary  
20     doesn't come anywhere close to, you know,  
21     intending to capture -- if indeed, the call  
22     lasted about an hour, you don't pretend to

1 capture everything that was asked and answered,  
2 correct?

3 A. Not even close.

4 Q. Do you happen to remember why the  
5 couple of comments that you did make, that you  
6 quoted about disappointment with only six  
7 months and cruel to require fees and  
8 disappointment about Kathy. Again, I assume  
9 that that is your supervisor?

10 A. Kathy Nuebel Kovarik.

11 Q. Yeah. Asking about criminal  
12 backgrounds, why did you -- what caused you to  
13 capture those particular observations during  
14 the course of this longer call?

15 MR. MARUTOLLO: Objection. Again,  
16 to the extent it does call for internal  
17 government deliberations, I would instruct you  
18 not to answer. To the extent it is related to  
19 a media assessment or something that was done  
20 to an outside government entity, then you can  
21 answer the question, but if it is only related  
22 to internal deliberations, again, I would

1     instruct you not to answer, but otherwise,  
2     please answer.

3                   THE WITNESS: I think these are two  
4     questions that came up during the question and  
5     answer period, and many of the questions and  
6     answers in this type of call are procedural or  
7     operationally-focused, asking how to get TPS or  
8     extend TPS, and because I work on the policy  
9     aspect of TPS, these two questions were more  
10    policy-related so I wanted to remember them.

11                   BY MR. CONNELLY:

12           Q.     Do you recall in a little greater  
13    detail whatever the question might have been  
14    that prompted Kathy or maybe how the topic of  
15    Kathy asking for criminal background  
16    information, give me the larger context as best  
17    you can remember from your note helping your  
18    memory what that was about.

19           A.     My best recollection is that  
20    somebody on the call, a public caller, must  
21    have been aware, I assume through possibly  
22    leaked e-mails at this point, although I'm not

1     sure of the timing of that, but my best guess  
2     is that someone was aware that Kathy had made  
3     the request and just made the statement on the  
4     call that that person was disappointed that  
5     this information had been asked for,  
6     particularly because the TPS statute allows  
7     someone who has up to two misdemeanors to  
8     receive and maintain TPS.

9           Q.     Do you remember, was Kathy on the  
10    call?

11          A.     I don't think so.

12          Q.     Do you remember that someone on  
13    behalf of the government responded to the  
14    question, or maybe it wasn't a question, maybe  
15    it was an observation.

16                   Was there a response to this topic  
17    being raised?

18          A.     I don't recall what the response  
19    was.

20          Q.     Okay. Let's go to 28.

21                   (Deposition Exhibit KA-28 was marked  
22    for identification.)



1 BY MR. CONNELLY:

2 Q. I am only interested in what's on  
3 the first page but as always, acclimate  
4 yourself.

5 A. Okay.

6 Q. Okay. The middle e-mail on May 23  
7 at 3:44 p.m., you are not initially on that  
8 e-mail, correct?

9 A. No.

10 Q. It looks like -- but you did get in  
11 the e-mail chain then two days later on May 25?

12 A. Yes.

13 Q. Okay. And May 23 was the day before  
14 the FRN extending the Haiti designation for six  
15 months, correct?

16 A. I believe that was.

17 Q. You can go back and take a look at  
18 it.

19 A. May 24th, wasn't it?

20 Q. Yeah, I believe so. Okay. And in  
21 this e-mail in the middle of it, I'll read it  
22 to you, it says: "DCOS comments, for S1

1 letters on Haiti TPS."

2 S1 letters would be letters for  
3 Secretary Kelly?

4 A. I'm sorry, what is what?

5 Q. S1 is Kelly?

6 A. S1 is Kelly, but can you repeat what  
7 you said.

8 Q. That's okay. That's really what I  
9 wanted to know. So it effectively says: "For  
10 Kelly letters on Haiti TPS, he wants a stronger  
11 response beginning to build a case for not  
12 extending."

13 Did I read that correctly?

14 A. Yes.

15 Q. Then it says: "From S1, make case  
16 as such," and then emphasizes some points that  
17 include highlight temporary nature, 2010  
18 earthquake is the only reason for TPS being  
19 granted, as well as some additional suggested  
20 language.

21 Do you see that?

22 A. I see that.

1           Q.       I understand you are neither -- you  
2       only get this two days later, but this is all  
3       being written literally the day before the  
4       extension is made public, right?

5                   MR. MARUTOLLO:   Objection.   Again,  
6       to the extent that you became aware of that  
7       information, you can answer.

8                   THE WITNESS:   I think we have had  
9       some confusion about this today and we've never  
10      quite pinned it down, but the date that the  
11      federal register notice was published was the  
12      24th.   I thought that the announcement was made  
13      in the days prior to that, so there was a  
14      public announcement and that was followed by  
15      the publication of the Federal Register notice.

16                  BY MR. CONNELLY:

17           Q.       Okay.   So these observations and --  
18      again, I am not asking you to embrace them  
19      because you didn't make them, but these  
20      observations, your best recollection are being  
21      made, this internal e-mail is, to your best  
22      recollection, circulating just sometime very

1     shortly after it was publicly announced that  
2     Haiti was going to be extended for six months?

3           A.     That's my best recollection, yes.

4           Q.     And then you are brought into --  
5     somebody pulls you in, gives you the e-mail  
6     chain. Do you know who -- because it just says  
7     from policy clearance.

8                   Do you know what person sent this  
9     e-mail to you and others?

10          A.     It is signed from Efren.

11          Q.     Signed in the body?

12          A.     In the body. The one from policy  
13     clearance mailbox it looks like.

14          Q.     Who is Efren?

15          A.     Efren is somebody who works in the  
16     office of policy and strategy and part of his  
17     role was circulating taskers, we call them, to  
18     the right people in the office to get the work  
19     done.

20          Q.     What is Efren's last name?

21          A.     I believe it's Hernandez.

22          Q.     Okay. And he begins by saying: "It

1     pains me to send this in light of yesterday's  
2     conversation."

3                     Do you recall being in a  
4     conversation with Efren and perhaps others on  
5     May 24?

6             A.     I don't, no.

7             Q.     He goes on to say: "There were  
8     problems with the person who was supposed to  
9     cover the box on Tuesday. I am doing it  
10    today."

11                    What is the task of covering the  
12    box?

13             A.     I think he's talking about the  
14    policy clearance mailbox, the e-mail address  
15    that is in the From line so it's an e-mail box  
16    that circulates again tasks for people in the  
17    office to complete.

18             Q.     And after May 25, did you become one  
19    of the people who at least partially was asked  
20    to try to assist in the stronger response that  
21    was being sought by Secretary Kelly?

22                    MR. MARUTOLLO: Again, I would

1 object to the extent it calls for internal  
2 government deliberations, but I would instruct  
3 you not to answer under the deliberative  
4 process privilege, but otherwise, you can  
5 answer the question.

6 THE WITNESS: I did work on the  
7 response to this incoming letter. It looks  
8 like it was from Cardinal Joseph Hogan. I did  
9 work on the response.

10 BY MR. CONNELLY:

11 Q. Let's go to KA-29, which is 10924.

12 (Deposition Exhibit KA-29 was marked  
13 for identification.)

14 BY MR. CONNELLY:

15 Q. We will probably go through most of  
16 this. I know you have been good about reading  
17 everything already.

18 A. Okay. Okay.

19 Q. The very first e-mail is from Tina  
20 Wimbush, W-I-M-B-U-S-H, on June 7, and she  
21 references the department.

22 Is that the Department of Homeland

1 Security?

2 A. Yes.

3 Q. You told me this previously, but  
4 EXSO, what is that an acronym for?

5 A. I think it's executive secretariat  
6 or executive secretary's office.

7 Q. An office that she is in apparently,  
8 right?

9 A. Yes. Oh, I see it says below.  
10 Office of the executive secretary.

11 Q. And then is it fair to say, and if  
12 you flip if you want to, that she notes, I'll  
13 quote it: "Upon review of the revised draft,  
14 it does not cover all the specific points as  
15 laid out by DCOS for S1 letters on Haiti TPS.  
16 He wants a stronger response, beginning to  
17 build a case for not extending," and then  
18 further, the additional language in terms of  
19 what is being looked for is exactly -- he just  
20 picks up exactly what was in the May 23 e-mail  
21 that I just showed you, which is part of KA-28.

22 A. Yes.

1 Q. Is that right?

2 A. Yes.

3 Q. And then this chain does run a bit,  
4 but you first get involved, as best I can tell,  
5 on June 7, so same day, she was at 1:16 p.m.,  
6 at 2:38 p.m., a little more than an hour later,  
7 you are first writing something in the chain  
8 and you say: "This is ridiculous. No need to  
9 consult, but feel free to give me a call this  
10 afternoon" if you'd like someone to talk it  
11 through with, "if you would like someone to  
12 talk you through with."

13 What were you referencing was  
14 ridiculous?

15 MR. MARUTOLLO: Again, objection to  
16 the extent it calls for internal government  
17 deliberations. I would instruct you not to  
18 answer under the deliberative process  
19 privilege. I think you can answer as to the  
20 document that you were referring to, that you  
21 termed ridiculous.

22 THE WITNESS: I was referring to the



1 request to further revise this response letter.

2 BY MR. CONNELLY:

3 Q. And why had you concluded that it  
4 was ridiculous to try to do that?

5 MR. MARUTOLLO: I would object to  
6 the extent again, this calls for internal  
7 government deliberations. I would instruct you  
8 not to answer under the deliberative process  
9 privilege. Again, it reflects a personal  
10 opinion of Ms. Anderson, you know, and I think  
11 it -- I'm going to instruct the witness not to  
12 answer that question as phrased.

13 BY MR. CONNELLY:

14 Q. What -- did you have concerns with  
15 the request, presumably so, if you summarized  
16 it as ridiculous, correct?

17 MR. MARUTOLLO: Objection. I will  
18 make the same objection I made a moment ago. I  
19 direct the witness not to answer at least again  
20 based on that phrasing.

21 BY MR. CONNELLY:

22 Q. What -- you had a negative reaction

1 to the request. Is that a fair statement?

2 MR. MARUTOLLO: Same objection, but  
3 you can answer based on what is in front of  
4 you, the document in front of you.

5 THE WITNESS: Yes.

6 BY MR. CONNELLY:

7 Q. And why did you have that reaction?

8 MR. MARUTOLLO: Again, I would  
9 object to the extent, first, it goes beyond  
10 this document, and second, it calls for  
11 internal government deliberations. Reflects  
12 personal opinion, interpretation of the author  
13 of this document, Ms. Anderson, at least this  
14 e-mail, so I would instruct the witness not to  
15 answer the question.

16 MR. CONNELLY: And, you know, a  
17 couple of times, Joe, you said the question as  
18 asked. Not your responsibility to get me to  
19 ask the right question but we've been dancing  
20 around this for a very long time. Is there any  
21 -- I want to probe, you know, what, why she had  
22 this reaction.

1                   Is there any way for me to formulate  
2   any question that you're going to not instruct  
3   her to not answer?

4                   MR. MARUTOLLO: I mean, I don't  
5   think that's a fair assessment. I mean,  
6   throughout this deposition, there have been  
7   multiple times when I've objected and then  
8   you've rephrased and I have permitted her to  
9   answer so, I mean, I am not formulating  
10   questions, but I am happy to continue in good  
11   faith.

12                  I would note again, this is a  
13   document that was originally deemed  
14   deliberative. This is a comment that was made  
15   by a government official and I think, you know,  
16   there is even an argument that, you know, what  
17   we could potentially argue here, that it's  
18   intended to embarrass the witness as well under  
19   Rule 30(d)(3), so I mean, I think there is a  
20   number of arguments we raise. I think the  
21   document speaks for itself, but we are happy to  
22   continue the deposition obviously.

1 MR. CONNELLY: Okay. Okay. For  
2 whatever it's worth, I can easily see where  
3 this e-mail chain may embarrass Tina Wimbush.  
4 I don't know why it would necessarily embarrass  
5 anybody who had a strong negative reaction to  
6 it, but that was not my intent.

7 BY MR. CONNELLY:

8 Q. Well, let me try this. What did you  
9 mean when you said this is ridiculous?

10 MR. MARUTOLLO: Again, I would  
11 object on the grounds of internal government  
12 deliberations, but I think given my prior  
13 objections, I think it's fair to explain what  
14 you meant by ridiculous. I think that's a fair  
15 compromise, without waiving any other  
16 privileges but specific to that question.

17 THE WITNESS: I guess I would say I  
18 meant that I thought that a request to continue  
19 to revise this letter was ridiculous, that's  
20 what I meant by saying it. I thought that it  
21 was ridiculous.

22 BY MR. CONNELLY:

1           Q.     And then your -- the next person in  
2     the chain, Mr. Prelogar makes the observation,  
3     "unreal?"

4                     Do you see that?

5           A.     I do.

6           Q.     Did you have an understanding --  
7     well, did you have an understanding -- I don't  
8     want you to speculate on what was in his head,  
9     but did you have any understanding what he  
10    meant by that word?

11                   MR. MARUTOLLO:   Again, I would  
12    object because it also calls for speculation as  
13    counsel notes, but again, to the extent you can  
14    explain this document, subject to our  
15    objections related to deliberative process  
16    privilege, you can do so.

17                   THE WITNESS:   You are asking for my  
18    understanding of his entire message or one  
19    particular word?

20                   BY MR. CONNELLY:

21           Q.     Well, I mean, his message is  
22    relatively short.   The whole message is -- I

1 will just pull some stuff from his statement,  
2 "unreal."

3 I am just asking for you to explain,  
4 if you had an understanding at the time, if you  
5 had an understanding of what unreal was  
6 intended to convey.

7 What is the import of that  
8 observation?

9 MR. MARUTOLLO: Again, I would just  
10 instruct the witness to answer only to the  
11 extent it does not implicate the deliberative  
12 process privilege. Doesn't go beyond the four  
13 corners of this document, particularly since  
14 you did not draft that e-mail.

15 With those limitations in mind, you  
16 can answer the question.

17 THE WITNESS: I took him to have a  
18 reaction that was similar to mine, that the  
19 request to further revise this response letter  
20 was surprising.

21 BY MR. CONNELLY:

22 Q. You then -- less than three minutes

1 later, closer to two minutes later, you got  
2 back to Mr. Prelogar and said: "Do you see the  
3 suggested language? It's amazing (and mostly  
4 incorrect.) This idea of localized damage from  
5 the earthquake is insane."

6 What did you mean when you said the  
7 idea of localized damage for the earthquake is  
8 insane?

9 MR. MARUTOLLO: Again, I would  
10 object to the extent it calls for internal  
11 government deliberations. I instruct you not  
12 to answer under the deliberative process  
13 privilege, but to the extent you can explain  
14 what that sentence means within the four  
15 corners of this document, you can answer the  
16 question.

17 THE WITNESS: In the suggested  
18 language that was sent to us in the 1:16  
19 e-mail, a piece of that proposed or suggested  
20 language says: "Primarily localized damage in  
21 capital region of Port-au-Prince," I think it's  
22 talking about the previous sentence, that the

1 damage from the 2010 earthquake that had  
2 ravaged Port-au-Prince and that there was  
3 primarily localized damage, that statement did  
4 not accord with my understanding of the impact  
5 of the 2010 earthquake.

6 BY MR. CONNELLY:

7 Q. And going to the top of page  
8 Bates-numbered 10925, same page we are on, let  
9 me make sure.

10 I'm sorry. The top e-mail is a  
11 trailer from the previous page, so this is your  
12 e-mail on June 7 at 2:51 p.m. back to Mr.  
13 Prelogar, and you say at the end of your  
14 relatively short message: "At least the  
15 untruth things said by SEC K can be attributed  
16 to him."

17 I take it that SEC K is Secretary  
18 Kelly?

19 A. Yes.

20 Q. And what did you mean by noting that  
21 the untruth things could be attributed to him?

22 MR. MARUTOLLO: Again, I assert the



1 objection not to answer anything that reveals  
2 internal government deliberations, but again,  
3 as a compromise here, we will agree for you to  
4 answer and explain that sentence in the e-mail  
5 that you drafted.

6 THE WITNESS: I think I meant that  
7 you can see in this chain that we were  
8 discussing the potentially one way to respond  
9 to this request to revise, was to essentially  
10 use the language from Secretary Kelly's public  
11 statement about the decision that he had made  
12 on TPS, and so in the sentence, I was  
13 reflecting that anything in that statement that  
14 I thought might be untrue were stated by him  
15 rather than us.

16 BY MR. CONNELLY:

17 Q. The final e-mail in the chain is by  
18 Mr. Prelogar shared with you about -- it  
19 appears to be less than an hour later, about 40  
20 minutes later, and here, this looks like a  
21 draft of some kind of a memo or a letter.

22 Can you tell me what -- just the

1 format of what he's providing to you after his  
2 observation: "This ought to do it."

3 A. I think this was his proposed draft,  
4 new draft letter to respond to this request to  
5 further revise the response letter. This was  
6 the language he proposed to put forward.

7 Q. And who was the letter going to be  
8 sent to?

9 MR. MARUTOLLO: Objection.

10 You can answer to the extent you  
11 know, or if it is not readily apparent in the  
12 e-mail.

13 THE WITNESS: I can't tell from this  
14 e-mail chain from KA-28 that we had looked at  
15 earlier. It looks like this entire task was  
16 related to a response letter to go to Cardinal  
17 Joseph Hogan but I can't tell that for sure  
18 from KA-29.

19 BY MR. CONNELLY:

20 Q. Who is -- okay. Cardinal, I happen  
21 to know as long as it may be, I still remember  
22 some of my Catholic terminology. Eminence is

1 often used as a -- I think is the appropriate  
2 designation to give to a cardinal.

3 A. I think this was the appropriate  
4 title or at least Brandon thought it to be,  
5 yes.

6 Q. And where was the cardinal? Just  
7 broadly, was he in Haiti or was he in the  
8 United States or do you know?

9 A. I don't know. I guess my assumption  
10 was that it was -- he was in the United States  
11 but I don't know for sure.

12 Q. All right. I'm going to give you  
13 the next document which will be KA-30.

14 (Deposition Exhibit KA-30 was marked  
15 for identification.)

16 BY MR. CONNELLY:

17 Q. This is really just a continuation.  
18 Most of this document, I think is the same  
19 chain through the last couple of entries on the  
20 first page.

21 A. Okay.

22 Q. But I am going to take you to the

1 middle page.

2 Let's go back to where we have been  
3 already in the middle of Page 561, the second  
4 page, we have already covered this a bit, but  
5 you -- I'm drawing your attention to your 2:51  
6 p.m. statement on June 7, at least the: "At  
7 least the untruth things said by Secretary  
8 Kelly can be attributed to him."

9 And then that is followed by a draft  
10 by Prelogar in response to the cardinal. In  
11 that draft, there are a number of quotes  
12 attributed to Secretary Kelly.

13 Are you able to tell me which, among  
14 those quotes, you think were untrue things?

15 MR. MARUTOLLO: Again, objection to  
16 the extent this calls for internal government  
17 deliberations, I will instruct the witness not  
18 to answer under the deliberative process  
19 privilege.

20 To the extent there are items that  
21 you want to explain further than you've already  
22 answered and explained, then so be it, but

1 otherwise, I would instruct you not to answer.

2 BY MR. CONNELLY:

3 Q. Let me -- I'm going to deliberately  
4 make this a compound question before you got to  
5 answer because it's kind -- your e-mail  
6 brackets this draft letter.

7 If you go to the first page at 4:54  
8 p.m., so we are now talking about two hours  
9 later, you send an e-mail to Mr. Prelogar and  
10 you say: "That's the best possible combo of  
11 true things from you and quotes of not true  
12 things from SK."

13 SK is Secretary Kelly?

14 A. Yes.

15 Q. "Nicely done." So whether you --  
16 whether you formulate, you know, what you were  
17 thinking, wondering was untrue at 2:51 or what  
18 was untrue at 4:54 p.m., I'd like you to tell  
19 me what you found to be untrue things stated by  
20 Secretary Kelly that were included in the draft  
21 response to the cardinal?

22 MR. MARUTOLLO: Again, I would

1     assert the same objection related to internal  
2     government deliberations, and instruct you not  
3     to answer under the deliberative process  
4     privilege. To the extent you want to explain  
5     any items within the four corners of this  
6     document, we would permit you to answer that  
7     question.

8                 THE WITNESS: Saying these items  
9     were untrue perhaps was a bit hyperbolic, but I  
10    did have concerns about some of the country  
11    conditions stated, and again, I don't know that  
12    what Brandon proposed to go forward was  
13    everything that was in the secretary's  
14    statement, so between my two e-mails, the 2:51  
15    e-mail was referring to the entire statement  
16    that I made, so there may have been more  
17    elements in a statement that I found to be or  
18    characterized as untruth than what ultimately  
19    got in this draft.

20                But if you look at Page 20561, the  
21    second paragraph, talking about the secretary  
22    elaborating on Haiti's progress.

1 BY MR. CONNOLLY:

2 Q. Right. And then a fairly long  
3 quote, the remainder of that paragraph is a  
4 quote presumably from the secretary, correct?

5 A. So to me, several of those elements  
6 didn't characterize the current conditions in  
7 Haiti fully or in the same way that I would  
8 have characterized them as being fully  
9 accurate.

10 Q. Let's go to KA-31 which is 880.

11 (Deposition Exhibit KA-31 was marked  
12 for identification.)

13 BY MR. CONNELLY:

14 Q. Okay. I want to direct your  
15 attention to your e-mail of July 18 at 12:53  
16 p.m. to David Cloe, C-L-O-E.

17 A. Yes.

18 Q. David is who?

19 A. He's, as you can see in his  
20 signature block above, the director of the  
21 Latin America Caribbean affairs in the DHS  
22 headquarters office of policy.

1           Q.     And I am going to read the  
2 paragraph.

3                   "Yesterday, we participated in a  
4 call with our Acting Director McCament and  
5 Ambassador Merten relating to S1's interest in  
6 the Haitian government actually to facilitate  
7 the return of its nationals to Haiti during the  
8 six-month TPS extension that was announced in  
9 May. S1 has told the Haitian government on a  
10 couple of occasions that the steps they take  
11 during the six-month TPS extension to help  
12 their nationals in the U.S. obtain updated  
13 travel documents and to otherwise encourage and  
14 facilitate their return to Haiti, will be  
15 something that he takes into account when  
16 considering whether Haiti's TPS designation  
17 should be further extended. The State is not  
18 aware of any affirmative steps that the Haitian  
19 government has taken in this regard so far?"

20                   Did I read that accurately?

21           A.     Yes.

22           Q.     Does your little summary accurately



1 reflect, you know, where things stood on this  
2 issue in July 18 of 2017?

3 MR. MARUTOLLO: Objection. Again,  
4 to the extent it calls for internal government  
5 deliberations, I would instruct you to answer  
6 -- not -- I would instruct you not to answer  
7 under the deliberative process privilege. You  
8 can limit your answer to what is in the four  
9 corners of this document which is KA-31.

10 THE WITNESS: It accurately  
11 reflected my understanding at that time.

12 BY MR. CONNELLY:

13 Q. Okay. So the -- I'm going to  
14 summarize, and you can tell me whether I've it  
15 right. That Kelly was saying that if the Haiti  
16 government encouraged and facilitated the  
17 return to Haiti of some of their people, that  
18 action would be something that he, the decision  
19 maker on the TPS status, would take into  
20 account when he next considered whether Haiti's  
21 TPS designation should be further extended.

22 Is that a fair characterization?

1 MR. MARUTOLLO: Again, I would  
2 object to the characterization as the document  
3 speaks for itself and I would also object on  
4 the ground it's vague, and further with respect  
5 to deliberative process, because this was still  
6 a deliberative e-mail communication, but given  
7 those limitations, you can answer the question.

8 THE WITNESS: I think that the  
9 sentence as I worded it in the e-mail is a fair  
10 characterization of what I understood to be the  
11 -- what the secretary had told the Haitian  
12 government.

13 BY MR. CONNELLY:

14 Q. Okay. Would -- in your estimation  
15 and in your, you know, the professional factors  
16 that you consider in these determinations for  
17 an extension, does the return of foreigners to  
18 their country, is that a current condition to  
19 be considered in deciding on whether or not an  
20 extension should be granted?

21 MR. MARUTOLLO: I would object to  
22 that question as phrased. First, vagueness

1 grounds and second, again, this witness is not  
2 a 30(b)(6) witness. This is a question for the  
3 decision maker, and I think it certainly goes  
4 to deliberative materials as to what factors  
5 were considered in reaching a final decision,  
6 so we would certainly object and direct the  
7 witness not to answer that question as phrased.

8 BY MR. CONNELLY:

9 Q. Are you going to follow that  
10 direction?

11 A. Yes.

12 Q. Had you ever, prior to this  
13 suggestion by Secretary Kelly that he might be  
14 influencing his decision making by whether  
15 people were returning to the country, had that  
16 factor, people returning to their country, ever  
17 been a part of your process in making  
18 determinations about extensions or  
19 designations?

20 MR. MARUTOLLO: Objection, again, as  
21 phrased. I would object as -- first as vague  
22 and certainly calls for information related to

1 internal government deliberations, and also  
2 presumes facts not testified to today regarding  
3 a process and whether or not -- and frankly,  
4 ultimately, the secretary is the one who makes  
5 the decisions not Ms. Anderson, so on those  
6 grounds as well, we would object and direct the  
7 witness not to answer that question as phrased.

8 BY MR. CONNELLY:

9 Q. Could you tell me if there is  
10 anything -- if you go back to the very first  
11 document that I provided to you today, which  
12 presumably is KA-1, and that's the actual  
13 statutory basis for the TPS issue.

14 Do you have that before you?

15 A. Yes.

16 Q. We just briefly glanced along some  
17 of the ideas or some of the concerns about  
18 ongoing armed conflict, earthquake, flood,  
19 drought, epidemic, other environmental disaster  
20 and then finally, extraordinary and temporary  
21 conditions. Remember, I think we had at least  
22 a brief discussion about that.

1           A.     We discussed the statute.

2           Q.     Yeah. And I think you told me that  
3     you were, you know, familiar with those  
4     concepts, correct?

5           A.     I'm familiar with this section of  
6     the law.

7           Q.     Yeah. Okay. Then we briefly  
8     discussed it in -- a little bit further, the  
9     extensions and what the attorney general or his  
10    designee which in this case would be the  
11    secretary of Homeland Security, what he would  
12    do in determining whether or not conditions for  
13    redesignation should be continued.

14          A.     You are talking about Section 3A?

15          Q.     Yes.

16          A.     Yes.

17          Q.     Okay. I would just like to ask you  
18    if there is any basis in the statute itself,  
19    show me in the statute where swapping out  
20    whether a country would ask its people back is  
21    a valid consideration in terms of whether a  
22    designation should be further extended.

1                   MR. MARUTOLLO: I would object and  
2     instruct the witness not to answer. Again,  
3     this is a fact witness, she is not an expert  
4     witness, not a 30(b)(6) witness.

5                   If that question calls -- as  
6     phrased, calls for a legal conclusion and, you  
7     know, frankly at this stage, I think it is  
8     bordering on harassment. We are now in Hour 6  
9     at least I think of the deposition, it is about  
10    5:15, and admittedly, we did take an hour lunch  
11    break, but we haven't even gotten into the Duke  
12    determination at issue in this litigation yet.

13                  Now we are going back to earlier  
14    exhibits, you know, so I mean, obviously, you  
15    can take a deposition as you like, but I'm not  
16    going to permit Ms. Anderson to, you know, to  
17    answer questions again about her understanding  
18    of the statute and statutory factors when it's  
19    irrelevant as a fact witness to her testimony  
20    and, you know, so I would just object and  
21    instruct the witness not to answer that  
22    question.

1 BY MR. CONNELLY:

2 Q. Have you ever -- in your role in  
3 helping assist and gather information so that  
4 the secretary can make a decision about either  
5 designating or extending a TPS status for a  
6 country, have you -- have you ever offered that  
7 encouraging people to return to the country  
8 would be an appropriate factor to consider in  
9 making that determination?

10 MR. MARUTOLLO: Again, I object. I  
11 think that calls for internal government  
12 deliberations about the substance of  
13 communications that are made. Given the way  
14 that the question is phrased, we'd instruct the  
15 witness not to answer that question under the  
16 deliberative process privilege.

17 BY MR. CONNELLY:

18 Q. Have you ever -- other than this  
19 singular instance, are you aware of a secretary  
20 or his delegate ever seeking to at least  
21 partially base his decision on extending a TPS  
22 determination based upon whether the country

1 was encouraging its people to return?

2 MR. MARUTOLLO: Again, I would make  
3 the same objection again. To the extent you  
4 later learned in a Federal Register notice or a  
5 final determination, that was a factor, if you  
6 learned at some point based on public  
7 information that was made final, I think you  
8 can answer that, but otherwise, I direct you  
9 not to answer, so you can answer with that  
10 limitation in mind.

11 THE WITNESS: Can you specify what  
12 element in particular you are wondering if --  
13 was ever taken into account?

14 BY MR. CONNELLY:

15 Q. An attempt by Haiti or any other  
16 foreign country to facilitate the return of its  
17 people.

18 MR. MARUTOLLO: I would just object  
19 on vagueness grounds as well, but again, given  
20 our limitation that I just noted about being  
21 related to a final agency determination that  
22 you came across, even though you are not an



1 expert witness or a 30(b)(6) witness, you can  
2 answer in your capacity as a fact witness in  
3 this case.

4 THE WITNESS: In general, the  
5 ability for a state to handle returns to this  
6 date, as well as whether nationals can return  
7 in safety, is part of the statutory basis that  
8 has been considered in the past as far as I  
9 understand it, as to whether a TPS designation  
10 can be made and should be extended or  
11 terminated.

12 BY MR. CONNELLY:

13 Q. Are you basically referencing an  
14 ability of a country to reabsorb their people  
15 would be a factor to consider in continuing TPS  
16 status or deciding whether to extend it?

17 MR. MARUTOLLO: Object on vagueness  
18 grounds and mischaracterizing the testimony  
19 that Ms. Anderson just provided, but with those  
20 objections in mind, you can answer the  
21 question.

22 THE WITNESS: In particular, I'm

1     referencing the statutory language for  
2     environmentally-based designation, which is  
3     (b) (1) (b) .

4             So in the environmental basis for a  
5     designation, part of the statutory  
6     requirements, II, is that the foreign state is  
7     unable temporarily to handle adequately the  
8     return to the state of aliens who are  
9     nationals, so for environmentally-based  
10    designations, that is a statutory  
11    consideration. Under C, for countries that are  
12    designated on the basis of extraordinary and  
13    temporary conditions, one of the -- again,  
14    statutory considerations is whether those  
15    extraordinary and temporary conditions in the  
16    foreign state prevent aliens who are nationals  
17    of the state from returning to the state and  
18    safety.

19            So for Haiti, which was designated  
20    on extraordinary and temporary conditions  
21    grounds, one of the statutory elements to  
22    consider is whether there are conditions in the

1 foreign state that prevent aliens who are  
2 nationals of the state from running to the  
3 state and safety.

4 MR. CONNELLY: Let's do this. I  
5 think maybe we have got about an hour left. I  
6 could be better if I spent some time thinking  
7 through where I want to go and what I want to  
8 do with that time, so let's take a short break.  
9 I don't care if you stay in place or you want  
10 to move around, but let's do that.

11 MR. MARUTOLLO: Sure. Thank you.

12 THE VIDEOGRAPHER: We're going off  
13 the record.

14 The time is 17:22.

15 (A short recess was taken.)

16 THE VIDEOGRAPHER: We're back on the  
17 record.

18 The time is 17:32.

19 BY MR. CONNELLY:

20 Q. We're going to ask you to take a  
21 look at KA-34 which appears to be a draft of a  
22 DHS statement about terminating Haiti.

1 (Deposition Exhibit KA-34 was marked  
2 for identification.)

3 BY MR. CONNELLY:

4 Q. I'm really not going to ask you much  
5 about the content, but you let me know when you  
6 are comfortable having me ask you questions.

7 A. Let me look at it a bit. Okay.

8 Q. Did you take part in generating this  
9 draft?

10 A. Yes, I believe so.

11 Q. Do you know who else was involved in  
12 that process? That's too broad a question.

13 I mean, were there co-authors  
14 besides yourself or were you the principal  
15 drafter?

16 MR. MARUTOLLO: Objection to the  
17 extent the -- which time, I guess I would just  
18 ask for clarification, but you can answer the  
19 question.

20 THE WITNESS: Sure, without knowing  
21 exactly which draft this is, it looks like it  
22 was leading up to the May decision because we

1 are talking about the designation being set to  
2 expire on July 22.

3 So I would say, yes, I was involved  
4 in drafting this, probably co-authored it with  
5 Brandon.

6 BY MR. CONNELLY:

7 Q. Let's go to -- I'm going to give you  
8 another document. I'm going to give you KA-36.

9 (Deposition Exhibit KA-36 was marked  
10 for identification.)

11 THE WITNESS: Okay.

12 BY MR. CONNELLY:

13 Q. This one I'm going to go a little  
14 bit differently. I mean, this -- the chain  
15 runs for a full week, it starts on October 6  
16 and runs through October 13. I'm going to go  
17 to the last memo first with you.

18 That's a memo from Kathy Nuebel  
19 Kovarik to several people including yourself  
20 and she says: "I am going to send you a  
21 revision of all three memo by 10:00 a.m."

22 Having looked through the full

1 chain, can you tell me or do you have a  
2 recollection of what the three memo are that  
3 she is referencing here?

4 MR. MARUTOLLO: Objection.

5 You can answer.

6 THE WITNESS: It's hard for me to be  
7 certain from this chain, but my best guess is  
8 that there were recommendation memos for the  
9 three Central American countries designated for  
10 TPS, Honduras, Nicaragua and El Salvador, but  
11 it's hard for me to be certain.

12 BY MR. CONNELLY:

13 Q. All right. Just a one-off question.  
14 There is a -- on the first page, there is an  
15 acronym reference to RU and one of the other  
16 memos.

17 What is RU?

18 A. It's research unit, a research unit.

19 Q. Okay. Were you involved in any or  
20 all of those three Central American memos?

21 MR. MARUTOLLO: Objection.

22 You can answer.

1 THE WITNESS: Again, I am not  
2 entirely sure that those are the three memos  
3 being referred to here but I was involved in  
4 drafting the recommendation memos for the three  
5 Central American countries.

6 BY MR. CONNELLY:

7 Q. Okay. I assume that it would be  
8 expected in drafting those memos, you did your  
9 level best to, you know, take all available  
10 information and generate a memo that, you know,  
11 reflected your best efforts to let the decision  
12 makers know what the circumstances were in the  
13 country?

14 MR. MARUTOLLO: Objection.

15 But you can answer the question.

16 THE WITNESS: Yes, that's my normal  
17 process.

18 BY MR. CONNELLY:

19 Q. And then Kovarik goes on to say in  
20 her October 13 memo: "The problem is that it  
21 reads as though we'd recommend an extension  
22 because we talk so much about how bad it is,

1 but there is not enough in there about positive  
2 steps that have been taken since its  
3 designation."

4           Given your uncertainty of the three  
5 memos and now we go into a singular tense,  
6 using the phrase "it," but could you tell me --  
7 can you recall from having received this  
8 memo -- I mean having received this e-mail,  
9 what Kovarik was referencing when she said,  
10 there is a problem that it reads as though we'd  
11 recommend an extension because of how much is  
12 bad and not enough about positive steps?

13           MR. MARUTOLLO: Objection. Again,  
14 it calls for speculation for the reasons  
15 counsel noted, but you can answer the question.

16           THE WITNESS: It seems to me as  
17 though she is talking about either all three  
18 memos in question, although using the singular  
19 or one of those memos in particular. I guess  
20 it would be all three as they were being done  
21 at the same time.

22           BY MR. CONNELLY:



1           Q.       Okay. And more particularly, do you  
2       have any recollection that your product, if  
3       indeed you had drafted one or more of these  
4       memos, do you have a recollection of your  
5       product being questioned by Kathy Kovarik for  
6       talking about, you know, how bad it is in the  
7       country and not enough about the positive  
8       steps?

9                   MR. MARUTOLLO: Objection. I would  
10       instruct the witness not to answer to the  
11       extent that that question calls for the -- it  
12       calls for internal government deliberation that  
13       will be protected by the deliberative process  
14       privilege, in terms of what a supervisor was  
15       discussing about a draft predecisional  
16       memorandum, so given the way the question was  
17       phrased, I would direct that Ms. Anderson not  
18       answer the question.

19                   BY MR. CONNELLY:

20           Q.       I'm going to show you KA-37, which  
21       is just one add-on to this long chain.

22                   (Deposition Exhibit KA-37 was marked

1 for identification.)

2 BY MR. CONNELLY:

3 Q. Feel free to fully compare but I'll  
4 represent in good faith that I believe the only  
5 thing new on this document from the previous  
6 one is the final e-mail which is at the top of  
7 it.

8 A. Okay.

9 Q. The top memo is from Brandon  
10 Prelogar on October 13 at 8:59 a.m. As I say,  
11 it follows that previous chain so it's still on  
12 that same topic area.

13 He says: "We can comb through the  
14 country conditions to try to see what else  
15 there might be, but the basic problem is that  
16 it IS bad there WRT," is that with regard to --  
17 is that the acronym for with regard to or do  
18 you know?

19 A. I think so, with regard to or with  
20 respect to. I'm not sure which.

21 Q. Or with respect to, "all of the  
22 standard metrics" for his first observation.

1                   When he says "we," and you are  
2   included on this e-mail, does that help you --  
3   or tell me your best recollection, were you  
4   involved in the process of taking a look at  
5   least one or more of three memos that Kovarik  
6   had mentioned in the prior e-mail, which was  
7   8:51 in the morning on the same day, October  
8   13?

9                   MR. MARUTOLLO: Again, I would  
10   object to the extent it calls for internal  
11   government deliberations. I instruct the  
12   witness not to answer under the deliberative  
13   process privilege, but to the extent you can  
14   explain this e-mail based on this document  
15   that's in front of you, you can answer. I  
16   would also object on the ground it calls for  
17   speculation as you did not draft this e-mail.

18                  THE WITNESS: I think that when he  
19   says "we," he's talking about him and me. I  
20   was involved.

21                  BY MR. CONNELLY:

22                  Q. And he goes on to state as a part of

1 his relatively short e-mail: "We can work with  
2 RU," that is research unit?

3 A. Yes.

4 Q. "To try to get more and/or comb  
5 through the country conditions, we are again  
6 looking for positive gems, but the conditions  
7 are what they are."

8 And is it basically kind of just a  
9 bedrock concept in making decisions about  
10 designations or extensions that you are  
11 supposed to try to take a good hard look at  
12 exactly what the conditions are in the country  
13 in order to make an informed decision?

14 MR. MARUTOLLO: Again, I would  
15 object to the extent it calls for internal  
16 government deliberations and I would instruct  
17 the witness not to answer under the  
18 deliberative process privilege, but also  
19 instruct the witness, she may answer but only  
20 to the extent it is in her role as a fact  
21 witness and not as a 30(b)(6) witness for the  
22 agency and in her personal dealings with TPS.

1 THE WITNESS: Part of my role is to  
2 take the full and very comprehensive country  
3 condition report that was provided to us by the  
4 research unit and pull out items from the full  
5 report that would be included in the memo that  
6 would go to the secretary.

7 I always tried to pull an objective  
8 and balanced and the most critical, as they  
9 seem to me, factors that were in the research  
10 unit report and include them in the draft memo.

11 BY MR. CONNELLY:

12 Q. All right. Let's go to KA-38 which  
13 is 1118.

14 (Deposition Exhibit KA-38 was marked  
15 for identification.)

16 THE WITNESS: Okay.

17 BY MR. CONNELLY:

18 Q. All right. And part of that October  
19 12 memo to Kathy Nuebel Kovarik, the core part  
20 of it says: "We have written" -- I better go  
21 back.

22 Let's take it through, "Kathryn,"

1     that is you, correct, in the second -- his  
2     second paragraph?

3           A.     Yes.

4           Q.     "And I have completed a draft Haiti  
5     TPS decision memo attached. In short, based on  
6     our review of country conditions, we have  
7     written it so that it could support either  
8     extension or termination, but left the  
9     recommendation blank pending further  
10    discussion."

11                   Does that comport with your own  
12    recollection of writing a memo that could  
13    support either extension or termination?

14                   MR. MARUTOLLO: Again, I object to  
15    the extent it calls for internal government  
16    deliberations, but otherwise, you can answer  
17    the question to the extent you can explain  
18    based on this document.

19                   THE WITNESS: I believe this was an  
20    accurate characterization of how we drafted the  
21    memo.

22                   BY MR. CONNELLY:

1 Q. Okay. And did anyone ask you to  
2 draft the memo giving those dual options?

3 MR. MARUTOLLO: Objection. Again, I  
4 would say that that calls for internal  
5 government deliberations and as phrased, I  
6 would instruct Ms. Anderson not to answer under  
7 the deliberative process privilege.

8 MR. CONNELLY: No room to answer on  
9 that one?

10 MR. MARUTOLLO: Not -- at least not  
11 the way that's phrased. I mean, if it's  
12 related to something in this e-mail or  
13 something that she can explain based on this  
14 e-mail, that is one thing, but the way it is  
15 phrased, I would instruct Ms. Anderson not to  
16 answer the question under the deliberative  
17 process privilege.

18 BY MR. CONNELLY:

19 Q. If you take a look at his first  
20 observation in his e-mail, he says: "Kathy,"  
21 and that Kathy is spelled K-A-T-H-Y, that is  
22 presumably Kathy Nuebel Kovarik?

1 A. Yes.

2 Q. And "(and Larry.)" And Larry is  
3 Larry Levine?

4 A. Yes.

5 Q. "Kathy and Larry who has been  
6 pestering - I mean, italicized "reminding -  
7 us," and then it moves on to talk about the  
8 draft that you completed. Okay?

9 What did you understand Brandon to  
10 be conveying to you in terms of what was being  
11 asked by Kathy and Larry?

12 MR. MARUTOLLO: Objection. It  
13 assumes facts not in evidence and it also calls  
14 for speculation, and I again reassert the  
15 deliberative process privilege, but limiting  
16 your answer to the objections I've just set  
17 forth and limiting it to this document, you can  
18 answer the question.

19 THE WITNESS: You mean what is being  
20 conveyed to me in this whole e-mail?

21 BY MR. CONNELLY:

22 Q. Yeah. Well, that's fine. Why don't



1     you try that and we will see whether your  
2     lawyer is concerned that you are giving me too  
3     much information.

4                   MR. MARUTOLLO: I think to the  
5     extent again, that you don't relay any internal  
6     government deliberations and limiting it to  
7     this e-mail, you can answer the question.

8                   THE WITNESS: So my understanding of  
9     what Brandon explained here is to provide the  
10    draft of the memo to Kathy for her review,  
11    noting that we had completed the draft and that  
12    following our review of the country conditions,  
13    we had structured it again so that it could  
14    support either an extension determination by  
15    the secretary or a termination determination by  
16    the secretary, but without filling in a USCIS  
17    recommendation.

18                   BY MR. CONNELLY:

19           Q.     Do you recall any other times when  
20    you generated a draft -- I don't need to know  
21    the content, just whether you generated any  
22    draft for a TPS decision which, rather than

1 coming down with a recommendation, was written  
2 either to support extension or termination?

3 MR. MARUTOLLO: Again, I would  
4 object and I would say that the question as  
5 phrased does call for internal governmental  
6 deliberations, because even though it may not  
7 go into the substance of the country at issue,  
8 it would go into whether or not a  
9 recommendation was or was not provided, and  
10 that would be internal government  
11 deliberations, so the way the question is  
12 phrased, I would instruct the witness not to  
13 answer under the deliberative process  
14 privilege.

15 MR. CONNELLY: Do you -- I'm not  
16 sure this is any different, but I can't think  
17 of any reason why this is privileged  
18 information.

19 BY MR. CONNELLY:

20 Q. I would like to know whether, other  
21 than on this occasion, you provided TPS  
22 decision memos that were written to support

1 either extension or termination?

2 MR. MARUTOLLO: Again, I would  
3 assert the same objection. I think it's the  
4 same question. The fact that it's going to the  
5 underlying conclusion and whether or not the  
6 recommendation is blank, is still, in itself,  
7 essentially a recommendation, because it's left  
8 open-ended, so I think again, the way that is  
9 phrased, I think it calls for deliberative  
10 process. It's subject to the deliberative  
11 process privilege.

12 To the extent Ms. Anderson can  
13 answer whether or not she drafted memos related  
14 to TPS more generally, and not limiting it to  
15 times when she left the recommendation blank, I  
16 think she can answer that question, so I mean,  
17 with that limitation, perhaps you can answer.

18 MR. CONNELLY: Although I'm not sure  
19 that that is very useful. I think it's, you  
20 know, well-established that she drafted other  
21 memos. I already know that. I think she's  
22 provided that answer, so I am interested in

1     whether this memo was idiosyncratic in the  
2     sense that it was the only one she ever drafted  
3     that left open whether or not to extend or  
4     terminate.

5                 MR. MARUTOLLO:   Again, I would  
6     reassert the objection and also I would note  
7     that in addition to the deliberative process  
8     privilege, the fact that it's not limited in  
9     any way by any other country and it's the fact  
10    that this is a -- you know, this is already --  
11    an e-mail is included and there's already been  
12    testimony about the Haiti TPS decision memo is  
13    further grounds to instruct the witness not to  
14    answer.

15                BY MR. CONNELLY:

16                Q.     When you said that it was someone  
17     else would be -- it would be left to be filled  
18     in, who was going to fill it in?   Who was going  
19     to make that decision?

20                MR. MARUTOLLO:   Just objection.  
21     First, I think it mischaracterizes testimony  
22     about what was said about who would fill things

1 in or whether -- whether that was Mr. Prelogar  
2 or Ms. Anderson.

3 I further object to the extent it  
4 calls for internal government deliberations,  
5 but I would instruct the witness she can answer  
6 the question with those objections in mind.

7 THE WITNESS: I would note that we  
8 left it blank and as Brandon said, my  
9 understanding was we left it pending further  
10 discussion, so I think we were not sure what  
11 the corporate CIS position was going to be.

12 I don't know that it was clear at  
13 the point that this e-mail was written who  
14 ultimately would fill in the recommendation,  
15 but we understood that there were -- there was  
16 further discussion to be had to arrive at the  
17 USCIS recommendation.

18 BY MR. CONNELLY:

19 Q. I will give you KA-39.

20 (Deposition Exhibit KA-39 was marked  
21 for identification.)

22 BY MR. CONNELLY:

1 Q. I'm going to be focused on the  
2 second page. I will -- take your time to  
3 familiar yourself with the entire e-mail chain.

4 A. Okay.

5 Q. Am I right that this e-mail chain is  
6 about the CA or Central American TPS decision  
7 memos?

8 A. Yes.

9 Q. Okay. And Haiti is not included, I  
10 don't think.

11 A. I don't think so.

12 Q. Okay. So very briefly, just on the  
13 Kathy Kovarik October 19, 12:45 a.m. e-mail,  
14 which is on Page 674, the Bates number.

15 A. Okay.

16 Q. She references comments, suggestions  
17 from Craig.

18 Who is Craig?

19 MR. MARUTOLLO: Objection. Again,  
20 you can answer to the extent you know, but I  
21 instruct the witness not to speculate.

22 THE WITNESS: He's a USCIS chief

1 counsel.

2 BY MR. CONNELLY:

3 Q. Was he an ordinary part of the kind  
4 of revision process for the TPS decision memos?

5 MR. MARUTOLLO: Again, I would  
6 object not only to the extent it calls for  
7 internal government deliberations, but as chief  
8 counsel, to the extent it implicates the  
9 attorney-client privilege. I believe as the  
10 witness stated, Craig Symons is the -- I  
11 believe is the chief counsel at USCIS, so to  
12 the extent that there is any questions related  
13 to communications made between Craig Symons  
14 specifically or the office of chief counsel, we  
15 would assert, first, the deliberative process  
16 privilege but also the attorney-client  
17 privilege, so I instruct the witness not to  
18 answer.

19 MR. CONNELLY: Okay. Again, I am  
20 not a judge, but I think that is pretty thin.  
21 I don't want content. I am just asking  
22 outwardly, you know, the question without any

1 contents requested, whether Symons was an  
2 ordinary part of the revision, not any process  
3 on the TPS memos.

4 MR. MARUTOLLO: Well, I think the  
5 question about whether it goes to revisions or  
6 editing goes to substance of the memos. I  
7 mean, I think if the extent of your questions  
8 is whether or not, you know, on a privileged  
9 log, Craig Symons would have been listed, I  
10 think that is one thing, but I think that would  
11 be as far as we would permit any questioning  
12 related to the office of legal counsel.

13 BY MR. CONNELLY:

14 Q. Prior to 2017, did you have any  
15 interactions with Craig Symons?

16 A. Craig Symons was a political  
17 appointee and I guess he did work for USCIS  
18 prior to 2017, but I didn't know him prior to  
19 then.

20 Q. When was he -- when did he become a  
21 political appointee?

22 A. I think he was part of the beachhead



1 team that helped with the transition for USCIS.

2 Q. Transition to the Trump

3 Administration?

4 A. Transition to the administration.

5 Q. And then what, did he become general

6 counsel then after the Trump Administration?

7 His title changed to general counsel?

8 A. At some point towards the beginning

9 of the Trump Administration, he received the

10 position of chief counsel.

11 Q. Okay. We will go to KA-40.

12 (Deposition Exhibit KA-40 was marked

13 for identification.)

14 THE WITNESS: Okay.

15 BY MR. CONNELLY:

16 Q. And part of this memo was in a prior

17 document that I showed you with the lower part,

18 so I will focus on the -- in the middle of the

19 memo on October 22, Kathy Nuebel Kovarik asks

20 Robert Law to take a look at the draft Haiti

21 TPS decision memo.

22 Tell me who Robert Law is.

1           A.     Robert Law is Kathy's -- I guess his  
2     technical title is senior advisor. He's a  
3     political.

4           Q.     Appointee?

5           A.     Yes.

6           Q.     Brought in by the Trump  
7     Administration?

8           A.     Yes.

9           Q.     And he responds to her on October  
10    22: "The draft," and the draft we are  
11    referring to is the draft that you and Mr.  
12    Prelogar had provided; is that right?

13                   MR. MARUTOLLO: Objection. I would  
14    direct the witness not to answer this question.  
15    This is an e-mail that is between Ms. Kovarik  
16    and Mr. Law. Ms. Anderson is not even  
17    referenced in this part of the e-mail.

18                   I think this calls for -- obviously  
19    calls for speculation, but certainly, it is  
20    internal government deliberations of other  
21    government officials not even involving  
22    Ms. Anderson.

1 BY MR. CONNELLY:

2 Q. We're going to slow down. Let's go  
3 to Brandon Prelogar's Thursday, October 12,  
4 10:11 p.m. e-mail which is on this page, and am  
5 I correct that he says -- copies you, and says  
6 to Kathy Nuebel Kovarik: "Kathryn" -- meaning  
7 you, "and I have completed a draft Haiti TPS  
8 decision memo attached.

9 Is that what he represents in his  
10 e-mail?

11 A. Yes.

12 Q. And later that day, the next e-mail,  
13 this is all in a chain provided to us within,  
14 you know, the ordinary business records of the  
15 government.

16 MR. MARUTOLLO: With respect to it,  
17 it was not the ordinary business record of the  
18 government. It was -- we produced it because  
19 it was produced in the Ramos litigation. We  
20 have not waived deliberative process but in an  
21 effort to avoid really unnecessary litigation,  
22 we have agreed to allow for questions related

1 to these documents as long as they are limited  
2 to the four corners of these documents, so I  
3 would object to that characterization.

4 MR. CONNELLY: Okay. Although  
5 again, I wasn't looking for an edge, but  
6 really, Joe, is there going to be any question  
7 when we go to trial, is anybody going to claim  
8 these are not business records of the  
9 government?

10 MR. MARUTOLLO: Well, no. I am not  
11 making a representation about that. I'm saying  
12 you said in the ordinary course, it was  
13 produced.

14 MR. CONNELLY: Okay.

15 MR. MARUTOLLO: I'm sorry. To the  
16 extent you meant in the ordinary course at  
17 USCIS, that's one thing. I'm sorry, if you  
18 meant US -- in the ordinary course of this  
19 litigation, then understood.

20 MR. CONNELLY: That's all right.  
21 Nobody's going to fight about that I don't  
22 think. The judge won't permit it.

1 BY MR. CONNELLY:

2 Q. But in any event, where -- Prelogar  
3 references a completed draft, a Haiti TPS  
4 decision memo by himself and you on October 12.

5 On October 22, on the same e-mail  
6 chain, Kovarik writes to Law and doesn't  
7 include either you or Prelogar, says: "Can you  
8 look at this draft."

9 And he gets back to her later, a few  
10 hours later, and says: "The draft is  
11 overwhelmingly weighted for extension, which I  
12 do not think is the conclusion we are looking  
13 for." I guess I'll leave it.

14 You know, I mean, it's unfair for  
15 you. You don't have to be the prover on this,  
16 but I don't think there is any question that we  
17 are talking about the draft Haiti TPS decision  
18 memo by you and your colleague. That was  
19 observational. We'll just leave it at that and  
20 move on.

21 MR. MARUTOLLO: We would object to  
22 that observation.

1 MR. CONNELLY: That's a fair point  
2 on your part.

3 BY MR. CONNELLY:

4 Q. Let's go to what I'm going to call  
5 what is 40-A because it wasn't in my original  
6 grouping, 9539.

7 (Deposition Exhibit 40-A was marked  
8 for identification.)

9 BY MR. CONNELLY:

10 Q. I'm not going to spend very much  
11 time on this. It is largely going to be a  
12 parenthetical observation you make on Page 542  
13 which is four pages in.

14 A. 542?

15 Q. Yes.

16 A. Okay.

17 Q. My general understanding is that you  
18 were asked to comment on a transcript that was  
19 generated by public comments that Dave Lapin,  
20 L-A-P-I-N, made; is that right?

21 MR. MARUTOLLO: Objection.

22 You can answer to the extent it's

1 related to this e-mail.

2 THE WITNESS: We were asked to  
3 review and comment this transcript that was  
4 provided to us. I'm not entirely sure. I  
5 mean, yes, Dave Lapin spoke, it appears.

6 BY MR. CONNELLY:

7 Q. Okay. Who is Dave Lapin?

8 A. To the best of my knowledge and  
9 recollection, although I am not certain, I  
10 think he's part of DHS Office of Public  
11 Affairs.

12 Q. And down on the bottom, near the  
13 bottom on Page 542, there is a large bracketed  
14 capital letter parenthetical. Did you generate  
15 those comments?

16 A. I think Brandon and I worked on  
17 these comments together.

18 Q. Okay.

19 MR. CONNELLY: Let's move to KA-41,  
20 2248.

21 (Deposition Exhibit KA-41 was marked  
22 for identification.)

1 BY MR. CONNELLY:

2 Q. My only question is going to be  
3 about numerical point No. 6 that you raise in  
4 the top e-mail.

5 Can I ask you a question? Are you  
6 ready?

7 A. Go ahead.

8 Q. Is this -- the context of this  
9 e-mail chain, you and Brandon Prelogar are  
10 looking at what I am going to assume are drafts  
11 of decisions that the secretary is going to be  
12 making about extending or terminating TPS  
13 status for various countries?

14 MR. MARUTOLLO: Objection.

15 You can answer to the extent it is  
16 limited to this e-mail.

17 THE WITNESS: No. I think we had  
18 recently received the State Department's  
19 recommendations and country condition  
20 assessments for these countries.

21 BY MR. CONNELLY:

22 Q. Okay.



1 A. And were --

2 Q. You are commenting on your --

3 A. Reading and commenting on our  
4 impressions of the State Department's  
5 recommendations.

6 Q. State Department's recommendations.  
7 Okay.

8 And the one that relates to Haiti,  
9 numerical No. 6 quote by you: "Don't know  
10 whether you read Haiti but it looks like one of  
11 our messes, the country conditions cited  
12 completely support an extension, but the stated  
13 conclusion of termination."

14 What were you conveying or what did  
15 you mean by using the phrase "one of our  
16 messes?"

17 MR. MARUTOLLO: Objection.

18 You can answer.

19 THE WITNESS: I was referring to  
20 some of the recent DHS memos that -- from which  
21 the assessment or the description of country  
22 conditions didn't necessarily lead to the

1 recommended conclusion of the memo.

2 BY MR. CONNELLY:

3 Q. Okay. I will show you KA-42 which  
4 is 1273.

5 (Deposition Exhibit KA-42 was marked  
6 for identification.)

7 THE WITNESS: Okay.

8 BY MR. CONNELLY:

9 Q. Okay. And this -- the major part of  
10 this chain e-mail is the -- Secretary Elaine  
11 Duke's announcement of ending TPS designation  
12 for Haiti, correct?

13 A. That's a good chunk of it, yes.

14 Q. And then you -- Mr. Prelogar shared  
15 that with you on November 20 at 8:17 in the  
16 evening, and you got back to him a half an hour  
17 or so later, with the observation: "Brilliant.  
18 How did we end up with a department of dunces."

19 Was brilliant declaratory, ironic,  
20 sarcastic? How would you characterize your use  
21 of that word?

22 MR. MARUTOLLO: Objection.

1           You can answer.

2           THE WITNESS: I think it was  
3   intended to be somewhat sarcastic.

4           BY MR. CONNELLY:

5           Q.     And what were you conveying or what  
6   was your meaning for posing the question of how  
7   you ended up with a department of dunces?

8           MR. MARUTOLLO: Objection.

9           You can answer.

10          THE WITNESS: I think I was  
11   expressing frustration at the decision to  
12   terminate Haiti's TPS and the conclusions that  
13   had been drawn in this announcement.

14          BY MR. CONNELLY:

15          Q.     Have you had, since this time in  
16   November of last year, have you continued to be  
17   engaged in working on the decisions about Haiti  
18   and its status -- its TPS status?

19          MR. MARUTOLLO: Objection. Vague.

20          You can answer.

21          THE WITNESS: I can say with the  
22   decision to terminate Haiti's TPS, there are no

1 further decisions scheduled to be made.

2 BY MR. CONNELLY:

3 Q. Okay.

4 A. But I continue to work on issues  
5 related to Haiti's TPS status.

6 Q. Again, I don't want to know anything  
7 more than what the issues are that you continue  
8 to work on.

9 MR. MARUTOLLO: Again, I would  
10 object to the extent there's anything related  
11 to deliberative, that would be protected by the  
12 deliberative process privilege, which would  
13 include internal government deliberations, but  
14 generally, you can answer general subject areas  
15 to the extent there are any related to TPS  
16 designations on Haiti.

17 THE WITNESS: In my role -- again,  
18 I'm in a new role now, but when I was in the  
19 office of policy and strategy, any policy  
20 issues related to TPS that come up are within  
21 our portfolio, so, you know, if there are  
22 questions that come up related to employment

1 authorization documents, related to, you know,  
2 Haiti TPS that sometimes are ongoing, if there  
3 are policy determinations to be made about who  
4 should maintain TPS or TPS should be withdrawn  
5 from certain individuals.

6 If there are Congressional inquiries  
7 related to Haiti TPS, I might be involved in  
8 responding to those, so just kind of ongoing  
9 questions related to administering the TPS  
10 program.

11 BY MR. CONNELLY:

12 Q. Can you tell me, if you can, in some  
13 rough fraction of your time since the decision  
14 to terminate last November, how much of your  
15 2018 time has been occupied with issues or  
16 matters involving Haiti?

17 A. That's hard for me to characterize.  
18 I mean, TPS ebbs and flows in terms of time  
19 that we spend on it, whether it's busy or not.  
20 Like I said, the litigation has taken a good  
21 amount of the time spent on Haiti TPS as well.

22 Q. Even through 2018?

1 MR. MARUTOLLO: And, again, I would  
2 just object to the extent it implicates an  
3 attorney-client privilege or anything along the  
4 lines of preparation for litigation or things  
5 of that nature.

6 But apart from that, you can answer  
7 the question.

8 THE WITNESS: I would say  
9 TPS-related issues continue to be a regular  
10 part of -- or continued in my previous role to  
11 be a regular part of my work.

12 BY MR. CONNELLY:

13 Q. Lastly, in the course of dealing  
14 with the TPS situation with Haiti, since the  
15 new administration came in in January of 2017,  
16 did you ever have any direct contact, whether  
17 oral, e-mail or in any other possible  
18 communication formats, with anyone at the White  
19 House regarding Haiti and its TPS status?

20 MR. MARUTOLLO: I would object on  
21 the grounds laid out in our White House -- or  
22 our motion for protective order related to

1 White House, related to discovery issues, and  
2 also to the extent there is any further  
3 questioning about presidential communications,  
4 but with those limitations in mind, you can  
5 answer the question.

6 THE WITNESS: What was the time  
7 frame again?

8 BY MR. CONNELLY:

9 Q. Since the beginning of the  
10 administration, since January of 2017.

11 MR. MARUTOLLO: And again, only to  
12 the extent, the question is whether --

13 BY MR. CONNELLY:

14 Q. I'm sorry. The start of the  
15 administration, January 2017.

16 MR. MARUTOLLO: Again, we would  
17 permit -- over -- we would assert our  
18 objections again for the reasons set forth in  
19 our motion for protective order with the White  
20 House discovery, and also to the extent it does  
21 not implicate any presidential communication  
22 privilege, and to the extent that it only is --

1 this question about whether there were even any  
2 communications between Ms. Anderson and the  
3 White House during that period, and with that  
4 limitation in mind, we can instruct you to  
5 answer the question.

6 THE WITNESS: I attended a meeting  
7 at the White House in May 2017, the meeting  
8 that was referenced earlier that was hosted by  
9 a director at the National Security Council,  
10 that was about Haiti.

11 MR. MARUTOLLO: I'm sorry. I don't  
12 mean to interrupt, but as that is a -- that  
13 meeting may include classified information, I  
14 just want to -- I don't mean to interrupt the  
15 witness, but since it is a classified issue, I  
16 do want to at least note that, but with that  
17 caveat, you may continue to answer if there is  
18 anything further you'd like to add.

19 THE WITNESS: Okay. Only that I  
20 attended a meeting that was regarding Haiti  
21 generally and TPS was discussed, and so there  
22 was a White House representative from the



1 National Security Council there at the meeting.

2 Additionally, it had been a regular  
3 practice in the past administration and the  
4 Obama Administration and the current  
5 administration to occasionally have contact  
6 with individuals working at the National  
7 Security Council who work on the TPS portfolio.

8 Sometimes they will reach out to ask  
9 about the status of TPS determination, and so I  
10 don't have a record of specific contacts but I  
11 probably had some contact with an NSC  
12 representative relating to Haiti's TPS.

13 BY MR. CONNELLY:

14 Q. Do you recall the name of the  
15 representative?

16 MR. MARUTOLLO: I would just assert  
17 the same objection, but you can provide the  
18 name.

19 THE WITNESS: In the 2017 year, I'm  
20 not sure when they transitioned, but I worked  
21 some with Melissa Bishop and also a man named  
22 Scott Oudkirk.

1 BY MR. CONNELLY:

2 Q. Can you spell that last name.

3 A. O-U-D-K-I-R-K.

4 Q. Anybody else come to mind? I am  
5 talking White House at large. I'm not -- that  
6 wasn't shorthand for just the president, but  
7 anyone who was working in the White House.

8 MR. MARUTOLLO: Again, assert the  
9 same objection and only to the extent you  
10 identify names, we would permit the witness to  
11 answer.

12 THE WITNESS: Possibly Monte Hawkins  
13 at the National Security Council. I'm not sure  
14 if I had contact with him about Haiti or not,  
15 but he was there at the beginning of this  
16 administration still.

17 And then Jill St. John who was  
18 detailed to the National Security Council from  
19 DHS.

20 BY MR. CONNELLY:

21 Q. So is it your best recollection that  
22 any contact or communications you had with

1 anyone involved with the White House, that was  
2 strictly -- your best recollection was  
3 strictly, it was people at the National  
4 Security Council?

5 A. Yes.

6 MR. CONNELLY: Okay. That's all  
7 I've got.

8 MR. MARUTOLLO: So we would just ask  
9 for an opportunity for the witness to sign and  
10 review the transcript which is part of Rule 31.

11 MR. CONNELLY: And let me -- I  
12 should say. It's kind of embedded in the  
13 record.

14 There may be, you know, a dust-up  
15 over whether or not you should have answered or  
16 had her answer questions and whether or not --  
17 we will have to decide whether we think that is  
18 worth bringing to the judge or not, and  
19 obviously, we will have to abide by whatever  
20 the judge tells us to do.

21 I give you that as a caveat to this  
22 deposition having concluded.

1 MR. MARUTOLLO: I would just  
2 reiterate that, again, we are willing to go to  
3 the Court now while the witness is here.  
4 Ms. Anderson is obviously a career employee.  
5 We have a very strict schedule.

6 We have an agreement related to -- a  
7 joint agreement that the plaintiffs filed the  
8 other night to have the judge available during  
9 these depositions to have real-time rulings, so  
10 we would object to bringing Ms. Anderson back,  
11 besides on the deliberative piece, just as a  
12 practical matter, given the tight schedule but  
13 that is our position. Thank you.

14 MR. CONNELLY: Thank you.

15 THE VIDEOGRAPHER: This concludes  
16 the deposition of Ms. Anderson.

17 We are going off the record at  
18 18:24.

19 (Whereupon, the proceeding was  
20 concluded at 6:24 p.m.)  
21  
22

1 DEPOSITION ERRATA SHEET

2 Our Assignment No. 448917

3 Case Caption: Saget

4 vs. Trump

5

6 DECLARATION UNDER PENALTY OF PERJURY

7 I declare under penalty of perjury that I have

8 read the entire transcript of my Deposition

9 taken in the captioned matter or the same has

10 been read to me, and the same is true and

11 accurate, save and except for changes and/or

12 corrections, if any, as indicated by me on the

13 DEPOSITION ERRATA SHEET hereof, with the

14 understanding that I offer these changes as if

15 still under oath.

16

17 Signed on the \_\_\_\_\_ day of \_\_\_\_\_,

18 2018.

19

20 KATHRYN ANDERSON

21

22

1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

3 \_\_\_\_\_

4 Reason for change: \_\_\_\_\_

5 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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7 Reason for change: \_\_\_\_\_

8 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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21 SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

22 KATHRYN ANDERSON

1 DEPOSITION ERRATA SHEET

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16 Reason for change: \_\_\_\_\_

17 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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19 Reason for change: \_\_\_\_\_

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21 SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

22 KATHRYN ANDERSON

1 CERTIFICATE OF NOTARY PUBLIC

2 I, Bonnie L. Russo, the officer before  
3 whom the foregoing deposition was taken, do  
4 hereby certify that the witness whose testimony  
5 appears in the foregoing deposition was duly  
6 sworn by me; that the testimony of said witness  
7 was taken by me in shorthand and thereafter  
8 reduced to computerized transcription under my  
9 direction; that said deposition is a true  
10 record of the testimony given by said witness;  
11 that I am neither counsel for, related to, nor  
12 employed by any of the parties to the action in  
13 which this deposition was taken; and further,  
14 that I am not a relative or employee of any  
15 attorney or counsel employed by the parties  
16 hereto, nor financially or otherwise interested  
17 in the outcome of the action.

18 \_\_\_\_\_  
19 Notary Public in and for  
20 the District of Columbia

21

22 My Commission expires: June 30, 2020



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**9539** 390:6

1 DEPOSITION ERRATA SHEET

2 Our Assignment No. 448917

3 Case Caption: Saget

4 vs. Trump

5

6 DECLARATION UNDER PENALTY OF PERJURY

7 I declare under penalty of perjury that I have  
8 read the entire transcript of my Deposition  
9 taken in the captioned matter or the same has  
10 been read to me, and the same is true and  
11 accurate, save and except for changes and/or  
12 corrections, if any, as indicated by me on the  
13 DEPOSITION ERRATA SHEET hereof, with the  
14 understanding that I offer these changes as if  
15 still under oath.

16

17 Signed on the 31 day of December,  
18 2018.

19 Kathryn E. Anderson

20 KATHRYN ANDERSON

21

22



DEPOSITION ERRATA SHEET

1  
2 Page No. 17 Line No. 22 Change to: \_\_\_\_\_

3 Cases. Also in the Newark office I

4 Reason for change: "New York" to "Newark"

5 Page No. 51 Line No. 5 Change to: \_\_\_\_\_

6 go back and review this document in your later

7 Reason for change: "lather" to "later"

8 Page No. 54 Line No. 17 Change to: \_\_\_\_\_

9 presence date for TPS beneficiaries, which

10 Reason for change: "state" to "date"

11 Page No. 67 Line No. 21 Change to: \_\_\_\_\_

12 sense of how many extensions or termination

13 Reason for change: "determination" to "termination"

14 Page No. 68 Line No. 8 Change to: \_\_\_\_\_

15 extensions, terminations, et cetera -- I

16 Reason for change: "determinations" to "terminations"

17 Page No. 93 Line No. 17 Change to: \_\_\_\_\_

18 was put out by the refugee, asylum and

19 Reason for change: add comma & <sup>change</sup> "at" to "and"

20

21 SIGNATURE Kathryn E. Anderson DATE: 12/31/18

22 KATHRYN ANDERSON

DEPOSITION ERRATA SHEET

1

2 Page No. 113 Line No. 17 Change to: \_\_\_\_\_

3 least was Brook's supervisor. I don't know

4 Reason for change: "Brooks's" to "Brook's"

5 Page No. 115 Line No. 10 Change to: \_\_\_\_\_

6 Haiti post within Western Hemisphere Affairs

7 Reason for change: delete "the" & "s" from "Hemispheres"

8 Page No. 154 Line No. 14 Change to: \_\_\_\_\_

9 options is right, including termination (with

10 Reason for change: "and quoting" to "including"; add comma

11 Page No. 155 Line No. 1 Change to: \_\_\_\_\_

12 "Ultimately, we're (USCIS) still going to assess

13 Reason for change: add parenthesis

14 Page No. 157 Line No. 6 Change to: \_\_\_\_\_

15 reflecting the recommendation that was in that

16 Reason for change: "recommendations" to "recommendation"

17 Page No. 158 Line No. 10 Change to: \_\_\_\_\_

18 previously drafting multiple FRN's to accompany a

19 Reason for change: add "a"

20

21 SIGNATURE: Kathryn E. Anderson DATE 12/31/18

22

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DEPOSITION ERRATA SHEET

Page No. 168 Line No. 5 Change to: \_\_\_\_\_

So the reference to S1 Haiti memo,

Reason for change: "Sa 80" to "S1 Haiti"

Page No. 168 Line No. 6 Change to: \_\_\_\_\_

which I'll translate as Secretary Kelly Haiti

Reason for change: "80" to "Haiti"

Page No. 182 Line No. 22 Change to: \_\_\_\_\_

Criminal/detainer stats you can find.

Reason for change: "statute confined" to "stats you can find"

Page No. 203 Line No. 5 Change to: \_\_\_\_\_

THE WITNESS: I'm aware that there

Reason for change: "I've" to "I'm"

Page No. 218 Line No. 18 Change to: \_\_\_\_\_

and I, were going to be asking Roy and Tom for

Reason for change: add comma

Page No. 232 Line No. 21 Change to: \_\_\_\_\_

that was made to terminate the TPS designations of

Reason for change: "decisions" to "designations"

20

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22

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1 DEPOSITION ERRATA SHEET

2 Page No. 237 Line No. 6 Change to: \_\_\_\_\_

3 Continuing: "So deeply distraught to hear this

4 Reason for change: "disrupted here" to "distraught to hear"

5 Page No. <sup>237</sup>~~208~~ Line No. 9 Change to: \_\_\_\_\_

6 whack jobs everywhere, even the civil

7 Reason for change: delete "in"

8 Page No. 248 Line No. 8 Change to: \_\_\_\_\_

9 A. It's in the last paragraph on Page

10 Reason for change: "photograph" to "paragraph"

11 Page No. 268 Line No. 16 Change to: \_\_\_\_\_

12 you have Section 244, I'm going to stop you

13 Reason for change: "2044" to "244"

14 Page No. 296 Line No. 22 Change to: \_\_\_\_\_

15 expected that the 60-day reregistration period

16 Reason for change: "50-day" to "60-day"

17 Page No. 301 Line No. 14 Change to: \_\_\_\_\_

18 crime. Employed. In school. U.S. has not

19 Reason for change: sentence break after "employed"

20

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DEPOSITION ERRATA SHEET

Page No. 303 Line No. 9 Change to: \_\_\_\_\_

media call and I think that crime, employed, in  
Reason for change: add comma

Page No. 310 Line No. 22 Change to: \_\_\_\_\_

A. Looking at this first page and the  
Reason for change: "in" to "and"

Page No. 318 Line No. 12 Change to: \_\_\_\_\_

THE WITNESS: My note captures that  
Reason for change: "what" to "that"

Page No. 319 Line No. 22 Change to: \_\_\_\_\_

begins with S. "They had" blank "and thought  
Reason for change: "have" to "had"

Page No. 320 Line No. 13 Change to: \_\_\_\_\_

recipients", in taking that note down. Was  
Reason for change: move quotation mark

Page No. 321 Line No. 9 Change to: \_\_\_\_\_

THE WITNESS: Certainly, in general,  
Reason for change: add comma

20

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22

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DEPOSITION ERRATA SHEET

Page No. 321 Line No. 10 Change to: \_\_\_\_\_

my notes don't capture every word that was

Reason for change: lower case "m" - not a new sentence

Page No. 324 Line No. 17 Change to: \_\_\_\_\_

disappointed Kathy asked for criminal

Reason for change: delete period

Page No. 334 Line No. 8 Change to: \_\_\_\_\_

like it was from Cardinal Joseph Tobin. I did

Reason for change: "Hogan" to "Tobin"

Page No. 336 Line No. 10 Change to: \_\_\_\_\_

afternoon if you'd like someone to talk it

Reason for change: delete quotation mark

Page No. 336 Line No. 11 Change to: \_\_\_\_\_

through with. "

Reason for change: add period & quotation mark <sup>delete</sup> redundant <sup>language</sup>

Page No. 336 Line No. 12 Change to: \_\_\_\_\_

[delete all language in line 12]

Reason for change: delete duplicative language

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DEPOSITION ERRATA SHEET

1

2 Page No. 343 Line No. 7 Change to: \_\_\_\_\_

3 idea of localized damage from the earthquake is

4 Reason for change: "for" to "from"

5 Page No. 344 Line No. 15 Change to: \_\_\_\_\_

6 untrue things said by Sec K can be attributed

7 Reason for change: "untruth" to "untrue"

8 Page No. 344 Line No. 21 Change to: \_\_\_\_\_

9 the untrue things could be attributed to him?

10 Reason for change: "untruth" to "untrue"

11 Page No. 345 Line No. 8 Change to: \_\_\_\_\_

12 discussing that potentially one way to respond

13 Reason for change: "the" to "that"

14 Page No. 346 Line No. 14 Change to: \_\_\_\_\_

15 e-mail chain. From KA-28 that we had looked at

16 Reason for change: add period - new sentence

17 Page No. 346 Line No. 15 Change to: \_\_\_\_\_

18 earlier, it looks like this entire task was

19 Reason for change: add comma; lowercase "i"

20

21 SIGNATURE: Kathryn E. Cul DATE 12/31/18

22

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DEPOSITION ERRATA SHEET

Page No. 346 Line No. 17 Change to: \_\_\_\_\_

Joseph Tobin but I can't tell that for sure

Reason for change: "Hogan" to "Tobin"

Page No. 348 Line No. 7 Change to: \_\_\_\_\_

least the untrue things said by Secretary

Reason for change: "untruth" to "untrue"

Page No. 350 Line No. 16 Change to: \_\_\_\_\_

, so there may have been more

Reason for change: delete "that I made"

Page No. 350 Line No. 17 Change to: \_\_\_\_\_

elements in the statement that I found to be or

Reason for change: "a" to "the"

Page No. 350 Line No. 18 Change to: \_\_\_\_\_

characterized as untrue than what ultimately

Reason for change: "untruth" to "untrue"

Page No. 352 Line No. 6 Change to: \_\_\_\_\_

the Haitian government's actions to facilitate

Reason for change: "government actually" to "government's actions"

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DEPOSITION ERRATA SHEET

1

2 Page No. 352 Line No. 17 Change to: \_\_\_\_\_

3 should be further extended. State is not

4 Reason for change: delete "The"

5 Page No. 361 Line No. 5 Change to: \_\_\_\_\_

6 ability for a state to handle returns to the

7 Reason for change: "this" to "the"

8 Page No. 361 Line No. 6 Change to: \_\_\_\_\_

9 state, as well as whether nationals can return

10 Reason for change: "date" to "state"

11 Page No. 363 Line No. 2 Change to: \_\_\_\_\_

12 nationals of the state from returning to the

13 Reason for change: "running" to "returning"

14 Page No. 363 Line No. 3 Change to: \_\_\_\_\_

15 state in safety

16 Reason for change: "and" to "in"

17 Page No. 372 Line No. 5 Change to: \_\_\_\_\_

18 through the country conditions we have again

19 Reason for change: delete comma; "are" to "have"

20

21 SIGNATURE: Kath E. Ash DATE 12/31/18

22

KATHRYN ANDERSON